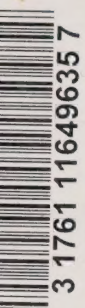


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Ontario Royal commission inquiry into
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ROYAL COMMISSION
INQUIRY INTO LABOUR DISPUTES

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HEARINGS HELD AT
TORONTO

VOL. NO.

37

DATE

May 11, 1967

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IN THE MATTER OF The Public
Inquiries Act, R.S.O. 1960,
Ch. 323

- and -

IN THE MATTER OF an Inquiry
Into Labour Disputes

BEFORE: The Honourable Ivan C. Rand,
Commissioner, at 123 Edward
Street, Toronto, Ontario,
on Thursday, May 11th,
1967.

E. Marshall Pollock - Counsel to the Commission

APPEARANCES:

E.P. Huggett,)	
President Ontario Division)	
B. Martin,)	
Executive Secretary)	CANADIAN
K. Cummings,)	
General Vice-President and)	UNION
President Local 1000 Hydroworkers)	
P. O'Keefe,)	OF
Representative)	PUBLIC
R. Bradshaw,)	
Member)	EMPLOYEES
L.G. Blackburn,)	
Secretary)	
B.A. Magnuson,)	
Ontario Leader)	ONTARIO
H. Hunter)	COMMITTEE
Member Provincial Executive)	OF THE
N. Brudy)	
Member Provincial Executive)	COMMUNIST
		PARTY

Toronto, Ontario

Toronto, Ontario
Thursday, May 11, 1967

1 -- At 10.00 am the hearing commenced.

2 MR. POLLOCK: The Canadian Union
3 of Public Employees - Ontario Division. Mr. E.P. Huggett
4 Chairman Legislative Committee.

5 MR. HUGGETT: Since our communica-
6 tions I have now been named to the presidency of
7 the Ontario Division.

8 MR. POLLOCK: Congratulations,
9 Mr. Huggett.

10 Gentlemen, we have read your brief
11 with considerable interest and the manner of presentation
12 at these hearings is informal. It is hoped to be able
13 to get into and discuss some of these matters in a
14 nature that will illicit all the information that we
15 desire and all that you wish to communicate. The
16 form of presentation is up to yourselves; you can
17 read parts of the brief, you can read all the brief,
18 you can summarise it, you can take points and we can
19 talk around them and we will ask questions on the brief
20 for clarification and hope to ask questions on other
21 matters that are not touched on in the brief - generally
22 to carry on a full discussion. Any of you are free to
23 participate and please do. In fact if you would
24 introduce the gentlemen at the head table with you
25 Mr. Huggett we are prepared to go ahead.

26 MR. HUGGETT: On my left is
27 Mr. Bruce Martin, who is Executive Secretary, Ontario
28 Division and on my right is Mr. K. Cummings, General
29

1 Vice-President of the Canadian Union of Public Employees
2 and President of Local 1000 Hydro Workers. Next to him
3 is brother Bradshaw a member of my committee and
4 Mr. Blackburn, also a member of the committee. These
5 were not listed originally because I was not sure that
6 they were coming. We have to gather people in from
7 various end of the province.

8 MR. POLLOCK: Business must be
9 good.

10 MR. HUGGETT: Our brief is not too
11 lengthy Mr. Commissioner and Mr. Pollock, it may not be
12 necessary to read all parts but I think I would certainly
13 like to read page two where we talk about the attitude
14 towards unions because this is perhaps the central theme
15 we are trying to develop here.

16 (Mr. Huggett reads brief from page
17 two from "there is in our opinion" down to "limited
18 acceptance of unions by the government.")

19 MR. HUGGETT: I think that if I
20 may, I will read the next section.

21 (Mr. Huggett reads brief from page
22 three to end).

23 MR. POLLOCK: Thank you, Mr. Huggett
24 Turning now to a couple of questions arising out of
25 these suggestions on the fifth page of your brief
26 relating to doing away with the opposition-petition
27 and doing away with the significance of that petition
28 in ordinary vote, in the ordering of a vote, you say
29 in the third point "that these dissenters make their
30

1 opposition known by the normal procedures..
2 voting". Well if you have 50% signed up then there isn't
3 any vote by your set-up. I think it would only be
4 consistent if there was a vote in every circumstance
5 and here would not be any necessity for the dissenters
6 to file a petition because they would be given an
7 opportunity to vote.

8 MR. HUGGETT: Well, I would agree
9 voting is the simplest method which we all know.
10 It is used, I suppose, in all organizations and all our
11 public life. You can't petition against the payment of
12 taxes or any other facet of our community life. You
13 can't petition against all levels - all levels of
14 government in the community use the simple method of
15 voting, a referendum or what have you to decide a
16 problem that is of interest to the public. We submit
17 that it is still the best way, to put it to a vote.

18 MR. POLLOCK: But, of course, once
19 you elect the municipal officers they are up for
20 election again in three years, five years, six years
21 in some cases, in others two years or one year. Once
22 you have set a union it is there, you don't have a vote
23 every five years. The certification doesn't run out.

24 MR. HUGGETT: But there is an open
25 period, isn't there?

26 MR. POLLOCK: That means that an
27 unorganized person has to go out and try to round up
28 enough people in the shop to express some doubt in the
29 Labour Relations Board that he enjoys majority support
30

1 to grant a vote.

2 MR. BRADSHAW: Isn't that the
3 same in any instance? In the first instance they have
4 to go out and round up support to have a vote taken.

5 MR. POLLOCK: If you are running
6 the analogy to the ordinary institutions of government
7 by saying that the vote is the way and the only way we
8 have of protesting against taxes is to vote the people
9 out, well it would not be very meaningful to have me,
10 if I am going to protest taxes, to have to round up
11 enough people in the city of Toronto to ask for an
12 election.

13 MR. BRADSHAW: To fulfill what
14 you are suggesting you would have to have a vote on
15 periodic periods whether everyone there wanted to con-
16 tinue as members of the union. Who would you suggest
17 operated this election? And who would pay for it?

18 MR. POLLOCK: If that is the
19 result of what I am suggesting that can be accomplished,
20 I suppose, by a periodic submission of ballots by the
21 Labour Relations Board and the Department of Labour
22 people to see if they still want the union. I am not
23 suggesting that.

24 THE COMMISSIONER: Suppose the
25 majority of the employees in a given situation don't
26 want a union and they don't vote and they just abstain,
27 why should a union be forced on them?

28 MR. HUGGETT: Well, sir, we
29 penalise ourselves whenever we don't vote in any
30

1 situation. We suffer the same consequences when we
2 don't vote in any situation, in municipal politics.

3 THE COMMISSIONER: No, in some states
4 they are bound to vote or subject themselves to fines
5 which helps to bring out the vote but to some people
6 there are excuses for not voting. "I simply don't want
7 a union" and "I am joined in by 51% of the men, we don't
8 want it" for some reason - it may be unreasonable,
9 it may effect their interests. Why should other
10 persons be so concerned with their interest as to impose
11 upon them something which a minority, on your same
12 basis of democracy, would require ?

13 MR. HUGGETT: : Well, I must with
14 due respect, sir, suggest that unions and collective
15 bargaining are now a part of living and there is
16 no real practical way to regulate our end of collective
17 bargaining unless you have some kind of democratic
18 organizations which all contribute, take part in,
19 express their opinions.

20 THE COMMISSIONER: I would say
21 that was pretty true provided that the workers want it.
22 If they don't want it they are not going to have a
23 certified agent. So, the idea of forcing upon people,
24 even if it has been recognized, I quite agree with you
25 that to those who desire it it is an effective agency
26 and there is no doubt that some of the trouble is
27 that that fact is not as fully recognized as it
28 ought to be but it depends upon consent. You want
29 consent, you talk about the democratic consent
30

1 as being essential but you are not willing to extend it
2 to all other people.

3 MR. CUMMINGS: Isn't it reasonable
4 if a person doesn't feel it is reasonable to assume
5 that he may be in favour or he may be against but under
6 the existing law he just automatically assumes he is
7 against.

8 THE COMMISSIONER: That is quite
9 true and the onus is on those who seek the incorporation
10 of a unit or the establishment of a union to see that he
11 does have a strong view to support it. That is your
12 duty, and not the duty of anybody else.

13 MR. CUMMINGS: But, sir, the point
14 is the people who vote have expressed a desire for
15 or against.

16 THE COMMISSIONER: Let them have
17 a union but you are not willing to do that; you impose
18 it upon people who don't want it.

19 MR. CUMMINGS: Well if they don't
20 want it they should vote against it.

21 THE COMMISSIONER: You are asking
22 them to do something affirmative. There is no logic
23 in saying they have got to act affirmatively. They
24 say "I act by refusing to vote for it". You may
25 think they are foolish, you may think their judgement
26 is unsound but that is their judgement. But in all
27 of these cases when we talk about democratic freedom
28 we have got to recognize that there are differences of
29 opinion and that those who hold a different opinion
30 even from the majority are entitled to be considered.

1 The arbitrary will of the majority is something that all
2 leaders of liberalism and freedom have insisted upon
3 and the minority rights are not really talked about much
4 more in a democracy than the majority rights. Although
5 majority rights are established, minority rights are not
6 but they must be protected.

MR. HUGGETT: They ought to
express themselves, sir.

THE COMMISSIONER: That is what
you think but they don't think that. They have
freedom, they have to have the freedom of expressing
themselves as they please and they say " We don't
support the union here" and they might be quite wrong
even from the point of view of their own interest.
The only thing to do there is for you to persuade them
that their own interest and their social interest as well
requires their support of you.

MR. POLLOCK: On page 11 you
discuss some of the exclusions and although I am not
certain at this stage whether that is really within
our terms of reference I want to know what you mean
by a person having the final authority in hiring or
firing another member of the bargaining unit?

The foreman in all cases may have the final authority
if it is not challenged. It is the initiating ability
that is of great concern, not the final authority.

MR. HUGGETT: In my experience,
sir, with municipal governments the most the foreman
could do is recommend to the head of the department
that this person's services be discontinued.

MR. POLLOCK: But he has to

Toronto, Ontario

1 institute the action, that is his function. He is
2 on the job. he sees the people and he initiates
3 the firing process. Now if you don't have that
4 initiation then the manager, the one who finally
5 does it has to go around and inspect everybody on the
6 job all the time.

7 MR. HUGGETT: But the man in
8 most cases doesn't leave the job when the foreman
9 makes his decision.

10 MR. POLLOCK: Oh no, but if
11 this foreman was a brother in the unit with this man
12 he might be reluctant to even instigate this type of
13 thing.

14 MR. HUGGETT: As we suggest, sir,
15 by having the foreman in a separate bargaining unit
16 this business can be avoided. This is what we do in
17 Toronto. This is why I used the example.

18 MR. MARTIN: If I could comment
19 while you are on this point I had occasion to be
20 directly connected with a totally union operated
21 and supervised function and I would suggest that right
22 from the superintendent down everyone was union.
23 There were fewer labour-management disputes

24blems on this particular function-and I am
25referring to the reconstruction of Dundas Street
26in London-because everyone from supervisor down had
27an awareness of the collective agreement and there
28was mutual respect because the men who were members of
29the unit. one local of our unit, and the supervisors

1 were members of another local of our union had mutual
2 respect and there were cases where employees were sent
3 in, they weren't fired by the superintendent, they were
4 sent in for some form of discipline or dismissal but
5 this decision was made by the management, by the
6 personnel director.

7 MR. POLLOCK: On what evidence,
8 representations that obviously the man had initiated
9 the dismissal?

10 MR. MARTIN: Quite true, sir.
11 I don't think it is the union's function to be his
12 spokesman and I don't think any union member is doing
13 his duty if he condones or hides dereliction of duty
14 by someone under his supervision. I don't think that
15 the union is here to protect the loafer. We have a
16 responsibility to management to give eight hours' work
17 for eight hours' pay and make sure that this is done.

18 MR. BLACKBURN: Sir, it has been
19 my experience in Niagara Falls and it is very much
20 like brother Bruce Martin, we have had the union called
21 in where dismissals were taken on and the management
22 can prove to us and show the union the rules and
23 procedure or working procedures have been
24 violated there and the evidence is there that the union
25 certainly backs management up on these things. We have
26 had several of these cases in front of union committees
27 that have highly recommended that the men be dismissed
28 because they are spoiling the relationships of the good
29 workers and violating the contract.

1 I suppose, the old adage that no man can very
2 effectively serve two masters. I think that is the
3 danger that is sought to be guarded against.

4 THE COMMISSIONER: Just in that connection
5 how many foremen are there that you have in mind?

6 MR. HUGGETT: I guess we have a
7 couple of hundred foremen in the city of Toronto.

8 MR. MARTIN: In the city of London
9 all our foreman staff are in the union.

10 THE COMMISSIONER: But how many
11 foremen and how many total employees ?

12 MR. HUGGETT: We have 5000 employees
13 in the city and Metro roughly and I would say there were
14 a couple of hundred foremen overall.

15 THE COMMISSIONER: And you have
16 how many unions in Metro ?

17 MR. HUGGETT: 20 or 25 in Metro.

18 MR. POLLOCK: 25 locals ?

19 MR. HUGGETT: Yes.

20 THE COMMISSIONER: That is less
21 than 10 persons involved in each union?

22 MR. HUGGETT: Now, in these
23 other locals as we point out, East York, had their
24 formen organized in a separate local, York Township
25 has their forman separate. I am not sure of all of
26 them. North York has the forman in a separate local.

27 THE COMMISSIONER: Well that is all
28 you have. You have less than an average of 10 foremen.

29 MR. HUGGETT: Yes.

30

1 THE COMMISSIONER: You are not
2 primarily interested in fees; you disclaim that. It is
3 something more than to pay fees and yet I notice in one
4 case where the man is suspended or improperly dismissed
5 and afterwards reinstated you complain about the lack of
6 fee.

7 MR. HUGGETT: Well, it is a
8 consideration, sir. I hope it is not the basic thought
9 or motive but it is a consideration to other people
10 particularly.

11 THE COMMISSIONER: I would agree
12 that it has some importance but I don't think it ought
13 to be over-emphasised.

14 MR. BRADSHAW: I think that there
15 is a thought that should be considered here. In Hamilton
16 between the inside and outside workers there is
17 approximately 1000 people involved. The exclusions leave
18 300 odd people in the city of Hamilton who are outside
19 of either union. This seems to me a rather high
20 proportion, I don't know whether the foremen were
21 excluded for a number of reasons but it seems to me
22 we have to get this definition of exclusions much
23 narrower so there won't be so many excluded.

24 THE COMMISSIONER: I would think
25 that if this is a wrong done to them we ought to have
26 something from them, not from other people who want to
27 have their ranks swelled by additional membership.
28 You may represent some but you don't represent them as
29 a body. Have they ever made complaints as a body?
30

1 MR. CUMMINGS: The foremen ?

2 THE COMMISSIONER: Yes.

3 MR. CUMMINGS: There have been
4 complaints from groups that are not recognized and
5 not in separate locals as compared to other groups who
6 are and have bargaining rights; in other words, some
7 municipalities voluntarily recognize them and others
8 don't.

9 MR. POLLOCK: And that is the
10 crux of the matter, if they voluntarily recognize them
11 you can bargain for them. If you don't you can't get
12 them certified because the Labour Relations Act doesn't
13 apply to them.

14 MR. BRADSHAW: I might say that
15 at this very moment the foremen are forming themselves
16 into a local union so they do want some union
17 representation.

18 MR. POLLOCK: They have to, I
19 suppose, align themselves with somebody who is in a
20 compulsorily bargainable position so that if they don't
21 get recognized voluntarily there could be some pressure,
22 I suppose, put on the employer.

23 MR. BRADSHAW: What we're here for
24 is to give them this right under the Labour Relations
25 Act to be recognized, whether it be as part of our group
26 or as a separate group.

27 MR. POLLOCK: But I say that that
28 is probably the only technique they have open to them
29 and that that is why they would probably associate.

1 with a sister local of the organized employees of
2 that employer.

3 MR. BLACKBURN: In Niagara Falls
4 we have approximately 300 people in our local unions
5 which covers inside and outside workers in one union,
6 There would approximately be 40 people who are
7 considered as supervisors under the foreman level
8 and the foremen generally on the outside staff are
9 all trying to get into the union because management
10 are giving them titles that really don't fit them,
11 they are just titles to get them on the bargaining
12 unit and then where the people on the bargaining unit
13 are enjoying set working hours and set rates of pay
14 they are using the foremen 24 hours around the clock
15 and giving them a day off when they see fit a month from
16 now or two months from now and then if they build up a
17 dozen blue days, as they are called, they complain that
18 they have got too many blue days and holidays and they
19 can't take them. The foremen are very dissatisfied.
20 These people would not be wanting to get into a union
21 if it was of benefit to them to stay out.

22 MR. POLLOCK: There is a procedure
23 in the Labour Relations Board to determine whether
24 these are just paper titles or not. You don't think
25 that is very satisfactory?

26 MR. CUMMINGS: It is very, very
27 unsatisfactory.

28 MR. BLACKBURN: As it states in
29 here you are liable to lose more than you gain.
30

1 It is up to the men to prove and who is to say?
2 They give him a title today and give him one function
3 to do for a week and they say "This man did this and
4 he is out", and after he is out they discontinue
5 that job. If he is out, he is out. You can't get
6 him back in once he is out.

7 MR. POLLOCK: Why not?

8 MR. BLACKBURN: We have tried it.
9 We had the officer down two years ago to Niagara Falls.

10 MR. MARTIN: I think it is interesting,
11 sir, to also note that in my experience with the
12 Corporation of the City of London in our bargaining
13 process each time we have gone in we have been
14 confronted with a list of proposed exclusions, and
15 each time we have replied to this proposal "It is
16 untimely, it is not negotiable, we have not got the
17 authority to deny union membership to anyone", and
18 we have advised them of the procedures under the
19 Act, but yet they have never taken the opportunity
20 for these exclusions. So this would indicate to
21 me -- and I hope to you -- that the Corporation of
22 the City of London is not consistent totally that
23 these are excludable positions: otherwise they
24 would have followed the procedure of the Act.

25 MR. POLLOCK: Unless they feel that
26 they don't care one way or the other.

27 MR. MARTIN: Then why would they put it in
28 as an item for negotiation?

29 MR. POLLOCK: Because on the
30 bargaining table they could get rid of it, I suppose.
If they hadn't raised that point they would have to
raise something else. There are many issues which
are raised on the bargaining table which aren't put
there because you hope to get that position
incorporated. Many of them are there to act as a
quid pro quo for something else.

MR. HUGGETT: Mind you, Mr. Pollock,
sometimes this can mean money too, overtime sometimes.

MR. POLLOCK: Yes.

1 MR. CUMMINGS: Quite honestly under
2 the present structure of the Act it can end up being
3 used by management as an instrument to continually
4 irritate an organization. Quite often you have a
5 recognition clause which states that all regular
6 employees belong to the bargaining unit and the
7 employees then are described ⁱⁿ the Act. The employer
8 can just without any agreement with the union
9 immediately start eliminating people. We have had
10 situations where they have eliminated as many as 160
11 in one block. Later we have had them returned to
12 the union and later we have had admitted to us that
13 the only reason they excluded them was to get the
14 department set up, and that the process of going to
15 the board under 79 (2) as explained here in the
16 brief is very, very time-consuming. You can spend
17 all day examining one person and quite honestly the
18 employer can sit there with legal counsel which
19 quite often forces the unions into supplying legal
20 counsel as well and they are not financially in a
21 position to compete this way, and as a result, have
22 to saw off in certain areas rather than really press
23 for the end that they feel they deserve.

18 MR. POLLOCK: We have seen
19 considerable lay people who have appeared before us
20 from the trade union movement who are much more
21 than a match for many legal people.

21 MR. CUMMINGS: I am not disputing that
22 fact.

23 MR. POLLOCK: On page 14 your recommenda-
24 tion is that conciliation boards be discontinued.
25 I wanted to know whether or not you, in your
26 experience, have found that conciliation boards have
27 solved some problems, or, if not, why do you think
28 that some conciliation boards work where other
29 conciliation officers fail as indicated by the
30 statistical studies of the Department of Labour?

29 MR. HUGGETT: Well, our experience has
30 been that the board will simply try to find a way out of

1 settling the dispute, of getting an agreement without
2 relation to the facts or any justification for the
3 decision. Since they are composed of nominees, one
4 from each, and a judge in the middle, he has to try
5 and find a line upon which he can get their
6 signatures rather than appraise the situation and bring
7 down something which would be a reasonable solution.

8 THE COMMISSIONER: Reasonable to
9 whom -- to him or you or the other people?

10 MR. HUGGETT: Well, it has to be
11 between the parties, something they can get their
12 teeth into.

13 THE COMMISSIONER: That might be
14 hard in some specific instances.

15 MR. POLLOCK: Of course, that is recall,
16 what he is trying to do, to bring down a reasonable
17 decision between the parties, and if he strikes this
18 line and says, "I think that is reasonable", and
19 the other party says, "Well, it is pretty close",
20 and the other party says, "It is pretty close", ~~that~~
21 has done that, he has achieved that, but it has been
22 put to us in other cases that the function of a
23 conciliation board is extremely important and very
24 complex in matters where the union nominee or the
25 company nominee is then in a position to articulate
26 the position of the other side to their own group
27 in the position of trust, one where you are not
28 trying to figure out every word what he means by
29 that and whether there ought to be a comma because
30 you have respect for him because he is your
nominee. In those ways many of the problems of
suspicion are worked out, and bargaining becomes
easier and the agreements are worked out on that
basis.

MR. O'KEEFE: There is a further
reason for our proposal that we do away with the
conciliation boards and that is to strengthen the
position of the conciliation officer. We feel that
quite often/at the conciliation officer stage both

1 parties will not pay sufficient attention to the work
2 of this experienced officer, and it is our feeling
3 that while you have the further step of conciliation
4 board the position of the conciliation officer will
5 not be taken that seriously. Now, we are saying that
6 our experience is the conciliation officer who
7 makes a full-time study of the industrial relations
8 field and is involved in it every day and it is his
9 full-time job, that this person is the most capable
10 person to get the parties to arrive at an agreement.
11 Now, of course, we are further proposing that at the
12 conciliation officer level once we do away with
13 the conciliation board we have to retain some of the,
14 say, the stripped power of the conciliation board in
15 that the conciliation officer would have the power
16 at his option to recommend to the parties ~~at~~
17 settlement and this recommendation would have the
18 same power as the recommendation of the present
19 conciliation board report.

20 Now, our criticism of the conciliation
21 board field is that in theory it might work pretty
22 well, but generally it is not only the middleman, the
23 chairman, who is a very busy person, but also quite
24 often you have got the two sides, the nominees, who
25 might also be very busy people, and in certain
26 groupings you will find that people make a pretty
27 well full-time living with this procedure. It is
28 our respectful submission that these people as such
29 do not have sufficient time, effort, to put into
30 a particular dispute. We feel that the conciliation
board process has had its day. We would have
agree that it has served a useful purpose in the
past, but we have now moved into that more
sophisticated stage in our relationship where they
are no longer necessary.

MR. POLLOCK. Well, what you said
about there being no desire to settle ~~at~~
conciliation officer if you know you are going to
the next step, I think that is met in a large number

1 of circumstances by the legislation which has been
2 more rigidly applied in that conciliation boards
3 are not automatic and they are not necessarily the
4 final answer. So that you have to be a very courageous
5 person today. I suppose, to take the position, "Well,
6 I am not going to make my full position here, I am
7 going to make it to that next tribunal", which may
8 not be there at all --- the next tribunal may be
9 people out on the street.

10 MR. O'KEEFE: Courageous, yes. but
11 is like Russian roulette -- you might just blow
12 your brains out because you don't know whether or
13 not there is going to be a no-board recommendation or
14 not. The question mark remains there and while that
15 remains you don't know what kind of tactics you are
16 going to pursue at any particular time. We feel
17 that the present trend, I think which is backed up
18 by statistics in the Labour Department, is that
19 boards are not as common now as they used to be,
20 I think this is a trend which arose from some
21 experience they have had. I think we should go all
22 the way and say that the conciliation officer must
23 be given that much more power, he must be the end
24 road and in my estimation he is certainly the most
25 unbiased person, if you want, in a particular
26 situation. He is a government officer who makes
27 full-time job of conciliation.

28 When you get to the other people at
29 the present time, the chairman of the board and
30 certain nominees, either in conciliation or
arbitration, I don't want to be unkind, but I might
say that a lot of people make their living out of
this particular pursuit.

THE COMMISSIONER: You mean as
chairmen of boards?

MR. O'KEEFE: As chairmen of boards,
yes, and it is somewhat difficult to expect that they
are going to bring their living to an end by going
too far one way or the other. They are, quite often,

1 under an obligation to either a union or a given
2 management at a particular time.

3 THE COMMISSIONER: Why are judges selected
4 anyway?

5 MR. O'KEEFE: Well, a judge, in our
6 society, we have respect for law and order, this is
7 something we have inherited ---

8 THE COMMISSIONER: Do you think that
9 is all? Does he develop the faculties that are called
10 for in arbitration?

11 MR. O'KEEFE: Some of them have.
12 I would say that generally judges do not have the
13 time to develop the particular skills needed in very
14 contentious industrial relations disputes.

15 THE COMMISSIONER: How would you
16 describe the differences in the skills required for
17 the conciliation officer first and, secondly, by
18 an arbitrator?

19 MR. O'KEEFE: The skills of a
20 conciliation officer and an arbitrator --- well, an
21 arbitrator insofar as a contract dispute is concerned,
22 the matter of interpretation of language -- is that
23 what you mean?

24 THE COMMISSIONER: No, I mean the
25 conciliation board --- take an arbitrator, what is
26 your understanding of the difference between an
27 arbitrator and a conciliator?

28 MR. O'KEEFE: They are two very
29 different things in my estimation. You have got an
30 arbitrator who deals with new demands or makes
recommendations or makes an arbitrary decision as to
what is a settlement. This is in contract
negotiations. Then you have an arbitrator in contract
disputes in terms of interpreting a clause in an
agreement. They are two different people. I think the
arbitrator as such in interpreting a particular clause
in a collective agreement --

THE COMMISSIONER: If you have
compulsory arbitration that goes right to the same

1 field that you have in the settlement of a dispute.
2 It has no basis in principle or in the requirement
3 of interpretation.

4 MR. O'KEEFE: Well, you have been
5 in Australia recently and so we have some experience
6 of the skill of the particular arbitrators in
7 Australia. I was a union representative in Australia
8 for seven years and I have some knowledge of it.
9 Now, there the arbitrators specialized in that
10 particular field.

11 THE COMMISSIONER: I know that, but
12 I was just wondering what you looked upon as the
13 distinctive features in the armory, you might say,
14 of the qualification of an arbitrator as distinguished
15 from a conciliation officer?

16 MR. O'KEEFE: Well, I am somewhat
17 confused in that. The point I am trying to get at
18 is the specialization, the person who specializes
19 in this particular field of industrial relations as
20 opposed to the person who goes everywhere.

21 THE COMMISSIONER: I understood Mr.
22 Huggett really to say that the arbitrator was a man
23 who tried to bisect the line of difference between
24 two groups.

25 MR. HUGGETT: This is what he is
26 finding himself having to do.

27 THE COMMISSIONER: Find that line
28 and really getting the middle point.

29 MR. CUMMINGS: Quite honestly, sir,
30 when you are arbitrating you have two facts and
you should say that that fact is right or that that
fact is wrong. Under my understanding of the word
"arbitration" you look at an interpretation of an
agreement and you say that interpretation is right or
that interpretation is right, but when you get two
sets of facts an arbitrator should say that the facts
they present are the facts that are right or the facts
that they present are the facts that are right, but
they end up making a decision which is someplace in

1 between and this is not applying the word
2 "arbitration".

3 THE COMMISSIONER: We don't have
4 that clean-cut ascertainment of the facts in what you
5 call compulsory arbitration: you have the whole field
6 before you, the whole field of social, economic and
7 even political considerations. So it is a question
8 of attributing evaluation to different considerations
9 and I was just wondering and I was asking you --- and
10 I took it Mr. Huggett really said he is getting
11 this line, but it is virtually a compromise line and
12 the most favourable compromise to the ordinary mind
13 is the mid-line, but I would distinguish that from
14 what you supplemented that with by the word
15 "reasonable". I agree that if it could be reasonable,
16 if there was some universal standard of reasonableness,
17 then that would be more or less the ultimate
18 achievement to retain that, but we have not any such
19 standard of reasonableness except in some cases you
20 get what the vast majority of fair-minded people
21 would say about a given course of action. It is the
22 absence of criteria, it is the absence of something
23 specific such as a clause in an agreement that makes
24 arbitration difficult. I was wondering whether when
25 you say you want the conciliator to make a
26 recommendation, you really treat him as an experienced,
27 officer who has the best judgment of reasonableness
28 and he would set forth the recommendation plus the
29 considerations upon which he bases it -- something
30 like an advisory opinion. He would say, "Here is
my view, here are the considerations on one side,
here are the considerations on the other side, and
in my opinion the balance of persuasion is on this
group". Is that what you have in mind?

MR. HUGGETT: Yes.

THE COMMISSIONER: In the case
an arbitrator?

MR. CUMMINGS: A conciliation
officer, not arbitration.

1 MR. O'KEEFE: It would be the same
2 recommendations as presently in a conciliation board
3 report.

4 THE COMMISSIONER: It doesn't do
5 that always because it may make no report.

6 MR. O'KEEFE: This is so, and I think
7 a conciliation board that puts the parties through
8 the hoop over a period of time and comes down with
9 no report I think they have done less than their
10 duty, I think they are wrong. If a conciliation
11 board comes out with a no-board report it has picked
12 up money for nothing in my estimation. They leave
13 the parties where they were at the beginning.

14 I am suggesting that in the terms
15 of the conciliation officer, in strengthening his
16 position, his recommendations if he has to give
17 recommendations, would have the same power and force
18 as the present recommendation of a conciliation board
19 report.

20 MR. POLLOCK: But the only
21 difficulty is that the conciliation officer holds the
22 respect of the parties because he acts in a reasonable
23 manner. He is not an arbitrary person. I don't say
24 that in the sense of "arbitration", so that his
25 independence of status as a civil servant really means
26 little if he becomes useless to the parties. If the
27 parties say, "Don't send Joe Brown, he is no good
28 at all, we don't want him because he decides on this
29 issue himself" and it doesn't take long before Joe Brown
30 the conciliation officer who exercises his independent
will is no longer the conciliation officer. It depends
in conciliation on voluntary acceptance by both sides

1 and you can't sort of say, "Well, you take this".

2 MR. O'KEEFE: Of course, we are not
3 saying that the recommendations as such have to be
4 accepted by either party. In our free society this
5 is where we distinguish between arbitration and
6 conciliation. Now, the party who is sent in to try
7 and resolve the differences between management and
8 labour in our free society, he conciliates and makes
9 recommendations, and we can accept or reject them.
10 This is the distinction between conciliation and
11 arbitration. Arbitration is a completely different
12 thing.

13 THE COMMISSIONER: That is understood,
14 you need not take up any time on that, that is under-
15 stood, but we did mention compulsory arbitration as
16 distinguished from the acceptance of, say, a
17 conciliation recommendation. That is quite so.
4 18 But when you speak about arbitration in a compulsory
19 sense, what would you do about the police force?
20 -- well, just leave that question for a few moments.
21 We wish to pursue something else at the moment.

22 MR. POLLOCK: We will just finish up
23 this conciliation business. One question. You
24 suggest he would have a more courageous position. How
25 many people who are presently employed by the
26 conciliation services would you say are of this super-
27 quality -- all of them?

28 MR. O'KEEFE: In my estimation I would
29 say yes, all of them have the necessary experience and
30

1 they are not tied to either management or labour. I
2 think they have that power now, they have the equipment.

3 MR. POLLOCK: So you would be prepared,
4 I suppose, to listen very seriously to their position
5 and their recommendations to you?

6 MR. O'KEEFE: I would and do, yes. As a
7 matter of fact, it is my own feeling now that unless
8 you achieve a settlement at the conciliation officer
9 level you might as well throw up your hands anyway
10 because the other step is not going to solve your
11 problem. If you can't solve it at the conciliation
12 officer stage --- that is my own attitude towards it.
13 Unfortunately, on the other side of the table management
14 think, "Well, this is another step and they are not
15 going to come to grips with this situation now, they
16 are going to wait for that further step".

17 MR. POLLOCK: And that is the reason you
18 suggest there are successful conciliation board
19 settlements, because there are.

20 MR. O'KEEFE: There are, yes, but they are
21 rare in my experience. Nowadays I suggest they are
22 pretty rare.

23 MR. POLLOCK: Do you suggest that on the
24 basis of any figures, or just from your own experience?

25 MR. O'KEEFE: Just on the basis of our
26 own experience at the conciliation board stage over
27 the past 12 months. I think the City of Toronto and
28 Metropolitan Toronto, a study of their conciliation
29 board procedures, the time they spent at this level,
30 and the ultimate recommendations is of some advantage

1 to us because I make the statement now that these
2 conciliation boards did more to put the parties apart
3 than they did to bring them together. That is my
4 experience.

5 MR. BRADSHAW: There is a situation, though,
6 that comes in here and that is when you are dealing
7 directly with the city council. These are elected
8 representatives who quite frankly don't want to make
9 any decision and want the conciliation board to hang
10 their hat on, but I think they would accept the
11 conciliation officer before it for the same purpose and
12 would eliminate all this time that is consumed with
13 the board.

14 MR. BLACKBURN: I was just going to say
15 that this is one of the big things that puts them
16 apart, the time period between the conciliation officer
17 and the time that the board is set up and the time
18 that you meet. I have found that conciliation officers,
19 we have had several of them at the Falls, and it has
20 been 18 months before the contract is settled through
21 the board. We pretty near went on strike. An officer
22 is a paid man, he has got one job to do, come down and
23 settle that job. If he had the full authority to
24 finalize it, I think he would do a much better job,
25 but when you have to go back and report or have the
26 board set up and they take time to set up, and we have
27 had three experiences where the chairman of the
28 conciliation board came in with a time limit, "You
29 have got to have this done within 24 hours", one fellow
30 had to go golfing up at Stratford, Ontario. This was

1 very nice for him. I suppose he liked to play golf,
2 but here was the bread and butter of 300 employees
3 involved. They were waiting for a raise which we
4 felt we were justified in asking for. The cost of
5 living was rising, the people had not enough money to
6 live on, and we were 18 months behind. We feel that
7 working under a time limit just makes the men that
8 much madder and they are not going to accept that
9 report anyway, so I think by putting it down to eliminate
10 the time you are not aggravating the both parties, with
11 speedy negotiations I think they would more mutually
12 get together and settle and if the officer himself had
13 the final say in it or more authority I think you could
14 get them together quicker because he is a fully-paid
15 man who is more readily available, you could get them
16 together quicker and there would be much more amicable
17 terms when they do sit down to bargain and he could
18 do something with the two parties and come up with a
19 good settlement.

20 MR. POLLOCK: Before we get into
21 arbitration perhaps we can take a short break.

22
23 ---Short recess.

24
25 MR. POLLOCK: Dealing with the points on
26 page 15 and 16 in regard to arbitration boards and
27 judges you are talking about, in this particular area,
28 the traditional type of arbitration of contract
29 differences.

30 MR. HUGGETT: Yes.

1
2 MR. POLLOCK: Your suggestion is that a
3 sufficient number of permanent arbitration boards be
4 set up by the Department of Labour in the same manner
5 as the three-man panels now in effect at the Labour
6 Relations Board. Are you suggesting there that there
7 ought to be the same type of representation, two
8 nominees and a chairman?

9 MR. HUGGETT: Yes, I think so. I think you
10 could still have the nominees from the parties
11 concerned, but not involve the judges in this work.
12 I have the greatest respect for men like Judge Bennett
13 whom I have worked with, he is as nice a man as you
14 would meet, but he has difficulties and he certainly
15 is a busy man.

16 MR. POLLOCK: Well, you would have
17 difficulty in, I suppose, finding people who are
18 capable of deciding complicated interpretations which
19 are really of a legal nature unless they were legally
20 trained. I don't say legally qualified, but at least
21 have some experience.

22 MR. HUGGETT: I wonder if they are so
23 legal, Mr. Pollock, these interpretations?

24 MR. POLLOCK: Well, I suppose some are not,
25 some are factual questions which could be sort of
26 the equivalent of a jury determining "Do I believe
27 this witness", or, "Do I believe that witness?", but
28 many of the cases, I believe, turn on the meaning
29 which is attributed to the particular section in the
30 light of the whole collective agreement. Would you
suggest any kind of a training system, or would you

1 just pick people out of anywhere and put them in?

2
3 MR. HUGGETT: No, I think it would be a
4 real job of recruiting this type of person. They would
5 certainly have to be trained. I have not thought much
6 about the type of course they would have to take, but
7 applications of the Act to different types of
8 employment ---- these men would then be free to
9 acquaint themselves with the different types of
10 employment. In my union, as I think we have indicated
11 here, we have all kinds of people. Would you believe
12 we have ferryboat captains and mates, jail fellows,
13 druggists' assistants, we have got them all. To
14 understand all these types of work and the differences
15 even between the homes for the aged and the hospitals,
16 there are differences, in the accidents, the type
17 of work.

18 MR. O'KEEFE: Mr. Pollock, it would not
19 be so difficult to get the people for these three-
20 man permanent panels, because most union representatives
21 are involved in words from the word "go". They have
22 to negotiate contract clauses and they are faced with
23 pretty skilled management people now. Both parties,
24 the union and management, have become skilled in
25 words. Now, a union representative wants to get a
26 particular clause in a collective agreement. He
27 knows what his proposal means and by the same token
28 the management people, various industrial experts,
29 Central Ontario Industrial Institute and various
30 other management industrial experts, they have a good
knowledge of words. Now, when it comes to the

1 interpretation of words I think there is no great
2 difficulty in getting the right people for these panels
3 because they are there already. You take any given
4 union, their representatives have negotiated agreements
5 over a period of years, and they know what contract
6 clauses are. They have to know them to negotiate in
7 the first place.

8 MR. POLLOCK: They have to know it to
9 negotiate successfully and well, but there are many
10 who don't on both sides, and then say, "Well, we will
11 give it to the arbitrator to decide what it means.
12 I think it means something and you think it means
13 something else", and before you know what happens the
14 ink is not dry and already there is a dispute as to
15 what it means.

16 MR. O'KEEFE: That is a dispute. I am
17 taking about the personnel for such boards. You are
18 questioning as to whether these people are there and
19 what kind of training system should they have, et
20 cetera. I am saying that those people are there
21 already. You have such people in both management and
22 labour at this time who are particularly skilled in
23 interpreting clauses.

24 THE COMMISSIONER: What you imply is that
25 they have participated in the formulation or the
26 drafting of those clauses. They have their own opinion,
27 but they may clash.

28 MR. O'KEEFE: Yes, they may.

29 THE COMMISSIONER: Then it is not such an
30 easy matter to decide what language means.

1 If both management and labour agreed upon the
2 interpretation what would be the need of arbitration?

3 MR. O'KEEFE: You misunderstand me. In
4 the first instance I am talking about available
5 personnel. Now we come to people who are set up as a
6 panel who are going to arbitrate this particular issue.
7 I am saying that these people based on the dispute
8 and the argument that is put before them and their
9 own powers of interpretation can come down with a
10 just decision. I am saying that the personnel to
11 make decisions are now available, they do have the
12 skill in interpreting clauses.

13 MR. POLLOCK: Their experience is limited
14 to interpreting it one way, though.

15 MR. O'KEEFE: I don't know that that is so.
16 I think we now have in arbitration cases a union
17 nominee or a management nominee. I would not say that
18 their decisions are based on a one-sided interpretation.
19 I think any union nominee who is going to do a worth-
20 while job is going to sit in on a particular case,
21 he is going to examine the argument that is before
22 him and his own skill of interpretation. He is going
23 to make a decision based on the right or wrong of a
24 particular given case. I think in arbitration in
25 particular you do not see hacks, labour and management
26 hacks, just taking a labour or union position. I
27 don't think you do in the arbitration field.

28 MR. POLLOCK: How many unanimous
29 arbitration reports do you see in the course of a
30 year?

1
2 MR. O'KEEFE: I do not have those figures,
3 but I have certainly seen quite a few of them.

4 MR. POLLOCK: Would you say that the pattern
5 has not been unanimous?

6 MR. O'KEEFE: I think that would probably
7 be so, yes. You must remember that initially there is
8 a dispute between two parties and there must be some
9 merit to one side or the other. There probably would
10 be some merit to begin with for one party or the
11 other.

12 MR. POLLOCK: Well, if there is some merit,
13 then that would be a question you would think which
14 would be recognized by all the parties and that they
15 would all decide in favour of the one who was right.
16 In many cases you see that policy dissents are not
17 uncommon. I have to dissent because I am appointed by
18 the union or I am appointed by the company.

19 MR. O'KEEFE: Well, of course, we are
20 trying to overcome that as well. We say there should
21 be permanent panels and we are suggesting sidesmen,
22 one nominated by the employer and the other an employee
23 representative rather than a management representative
24 or a labour representative as such, a union
25 representative as such. He is an employee representative
26 as is the case in the Labour Relations Board. Then,
27 I think the political dissent or the policy
28 dissent as such would be rare.

29 MR. POLLOCK: Why don't you take the
30 position you are familiar with in Australia where a

1 single man would decide this question and he may have
2 been drawn from the management ranks or he may have
3 been drawn from the employee ranks or he may have
4 been drawn from the employer ranks or from an outside
5 unrelated body. If you get a two out of three
6 decision, the chairman is eventually one of those two
7 and he is the one who is deciding. If you are going to
8 give him security and tenure for a long period of time,
9 then you hope to be able to take good people who are
10 experienced, not good union people who are going to put
11 the union side and not good company people who are
12 going to put the company side, but good people who
13 could appreciate both sides, understand the issue and
14 accept the arguments by counsel on either side.

15 MR. O'KEEFE: Well, I think there is much
16 to be said for a one-man board, I am not ignoring that
17 completely, but it is not our North American way.
18 We do have decisions that are well written and go into
19 the dispute in great detail. That is our North
20 American way. So, consequently, it might very well
21 be that three minds are better than one. My Australian
22 experience is that in Canberra where I worked we had
23 a dispute on Monday and you go to the arbitrator on
24 Wednesday and you had his decision on Friday. Now,
25 they did not necessarily give reasons for their
26 decision, apart from very scant reasons. They say that
27 the union or management has won this so and so. You
28 do not have reasons as such. I think that where you
29 do have written decision that involve certain points of
30 law and a careful scrutiny of the items in dispute that

1 three minds are better than one, and this is the North
2 American way. I don't know whether it is the right
3 way or not, but it is the way we do operate.

4 MR. POLLOCK: Well, it has been suggested
5 that one of the abuses of arbitration is that it takes
6 so long and it has also been suggested that part of
7 that length is in setting forth reasons because they
8 are making some kind of a precedent, not binding but
9 persuasive. Would you be satisfied for a quick,
10 speedy justice without reasons?

11 MR. O'KEEFE: No, I would still like to
12 have reasons because I think justice must appear to be
13 done. So that you must give logical reasons for doing
14 so. I think there is much to be said, however, for
15 interim decisions that a panel or an arbitrator once
16 he decides in a particular way I think he could say
17 so immediately and then with reasons to follow.

18 THE COMMISSIONER: Why don't they give
19 reasons?

20 MR. O'KEEFE: Where is this?

21 THE COMMISSIONER: When they don't give
22 reasons why is it they abstain deliberately? Is it
23 because they don't want to establish the principle of
24 following precedents?

25 MR. POLLOCK: In Australia.

26 THE COMMISSIONER: You have an appeal there
27 to the full arbitration board and you may if the facts
28 are misconceived by the commissioner, have a reversal.

29 MR. O'KEEFE: That is right, on an appeal
30 that is so.



1 MR. BRADSHAW: I might suggest, Mr.
2 Pollock, I don't want to be on outs with the rest
3 of the committee, but we in Hamilton have just
4 negotiated our last agreement on the principle that
5 we have used one arbitrator. We have not gone
6 beyond this, but we are going to continue to use
7 one arbitrator.

8 MR. POLLOCK: I would not say this is a
9 pattern, but it is developing this way because it
10 is a practical matter. It is one person who decides
11 these things anyway, and the umpire system is just
12 as acceptable if you have as clear a person as
13 that one person.

14 THE COMMISSIONER: I think you should
15 remember that there may be a very valuable feature
16 of the Australian situation which is that every
17 commissioner has certain industries allocated to him.
18 He becomes expert in relation to those industries,
19 and he is confined to those, normally. He may sit
20 in appeal, and it may be if there is no one
21 available he could take others, but he concerns
22 himself primarily with certain fields of industry,
23 and in that way he becomes very familiar with them.

24 MR. CUMMINGS: We had a situation a
25 few years ago where a chairman made a decision and
26 both parties, that is the union nominee and the
27 company management nominee, and in this case they
28 were both lawyers, both agreed that they couldn't
29 live with his interpretation and we both agreed as
30 a result to ignore his opinions because of



1 inexperience.

2 THE COMMISSIONER: That may be, but in
3 Australia even in the case of a highly accomplished
4 commissioner there is an appeal, but it would have
5 to be well supported to have his view really ruled
6 out or changed.

7 MR. POLLOCK: Turning now to the issues
8 of arbitration outside of the traditional contract
9 terms, interest disputes, starting on page 18, you
10 set out some three principles and then back them up
11 by some examples. You suggest that knowing that
12 arbitration is the end of the line destroys any
13 incentive or desire to bargain collectively and that
14 no one will compromise until a dispute goes to a
15 board. We, of course, have not got a terrific
16 volume of evidence of compulsory arbitration, but
17 in those areas where it has been newly instituted,
18 in the hospitals, for example, we have had evidence
19 from the Building Service Employees' Union that
20 although there are lots of bugs in the arbitration
21 system they are still successfully negotiating
22 contracts by collective bargaining without
23 reference to arbitration boards and in the majority
24 of cases. I think the figures are somewhere around
25 70 percent of cases where collective agreements
26 are arrived at without reference to arbitration.
27 That would seem to run counter to the suggestions
28 that you make on these boards.

29 MR. HUGGETT: I think it may very well
30 be. If both parties agree with the idea of being



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1 faced with an axe at the end of the hall it is not
2 desirable and they would rather come to some
3 agreement than face the headsman.

4 THE COMMISSIONER: Not always, though,
5 Mr. Huggett.

6 MR. HUGGETT: No, but I have heard of
7 this developing. Certainly our experience last
8 year was Riverdale Hospital, this was their first
9 year under compulsory arbitration and there was
10 very little bargaining, very little placed on the
11 table because, of course, they were going to go to
12 compulsory arbitration.

13 MR. POLLOCK: Of course, once you have
14 had experience with compulsory arbitration and
15 the board does not always accept your point
16 completely and you might feel, "Well, maybe it is
17 not such a sure thing for either management or the
18 other side. Maybe we ought to try and arrive at
19 an agreement over something we still have control
20 over ourselves before letting someone (I won't use
21 the term "headsman"), but another person make the
22 decision".

23 THE COMMISSIONER: What would you say
24 if they could be elected by one of the parties?

25 MR. CUMMINGS: Voluntary arbitration?

26 MR. POLLOCK: It would not be voluntary
27 if he was elected by one of them.

28 THE COMMISSIONER: Either one of them.

29 MR. HUGGETT: I see what you mean. No,
30



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ROLL

1 I think it is undesirable. I think it is undesirable
2 in principle. I would not deny it to yourselves.
3 I couldn't in my heart deny the right to withhold
4 your labour if the conditions under which you are
5 forced to work or are asked to work -----

6 THE COMMISSIONER: You are not forced.

7 MR. HUGGETT: No, I corrected it.

8 THE COMMISSIONER: That is your
9 fundamental freedom that you are not forced.

10 MR. HUGGETT: But if they are so bad that
11 you feel you can't live with them, then I would
12 defend your right to say "No".

13 MR. POLLOCK: But you do a disservice
14 to yourselves when you say that they are so bad and
15 that you can't demonstrate that they are so bad
16 because if they clearly are so bad and even the
17 poorest of arbitrators will see that they are bad
18 and make some changes in them ---

19 MR. HUGGETT: Would you forgive me if I
20 disagree with you?

21 MR. POLLOCK: I don't have to forgive
22 you at all.

23 MR. HUGGETT: I must point to the
24 hospitals.

25 THE COMMISSIONER: Well, take the
26 hospitals: do you think that they ought to be able to
27 because of a disagreement over money?

28 MR. HUGGETT: No.

29 THE COMMISSIONER: Do you think they
30 ought to be able to close because of a dispute over



1 money?

2 MR. HUGGETT: No. And believe me, I
3 don't think they ought to be closed.

4 THE COMMISSIONER: Well, that may be the
5 effect of it.

6 MR. HUGGETT: I suggest that if, as we
7 have said in our brief, there is a proper acceptance
8 of the rights of labour and people have the right to
9 organize, the right to be represented properly, and
10 the right to withhold their labour they, given this
11 acceptance, will assume their responsibilities.

12 THE COMMISSIONER: It is not only to
13 withhold their labour but to say, "My position as
14 an employee is not affected by that". It is not
15 merely saying, "I am not going to work". They could
16 go at any time and sever themselves from that
17 employment, but that is not it at all. They say,
18 "I am entitled to maintain my employee relation".
19 That is what the statute provides, and it is going a
20 tremendous way to transform the relations of
21 employer and employee. I think this is a point at
22 which I may raise this. You see, what did strikes
23 arise out of, what did unions arise out of? It was
24 a conflict between the private entrepreneurs or
25 industrial promoters who were out to make profits
26 in private enterprise and you speak of the councils
27 here who employee people in the public service as
28 if they were in the same relation to the employee.
29 as the employee of a man out to make profits. I
30 think you must consider the different elements/ ^{that} are



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present in the one and the other. One represents the public, the other represents the private individual, and in the origin of things when you speak about governmental employees you touch upon a field that has developed in the last few years. There is no such right unless it is given by law to treat a public occupation in that manner. I think there are certain factors in it that ought to be taken into account. In the first place, there is the permanence of it. You are a public employee really for life, unless you are guilty of an offensive action of some sort that justifies it --- and my experience is that it has to be clear and significant --- you have a life employment. You don't have that in a private industry. It may go bankrupt next year, there may be such a fluctuation in the types of economic life and industrial life as to wipe out half a dozen of them. Look at the bankruptcies in the 1930's, but the government has to go on. The government is in a position to represent not only you yourself, but all the others who are in the same position as taxpayers. These services are not for the purpose of raising profits, creating profits: the primary concern is not to make the taxes on you unbearable. So it seems to me that this permanence, this general appeal to the public opinion in a community which the management can more easily justify its action than it can perhaps to a private employer because he says, "Does this mean an abstraction unreasonably from my profits?", and they



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1 say, "It means that to some degree". He says, "Then
2 you can't do it, we will fight them", but in the
3 public he is not limited by that. He must take into
4 account the sufficiency of his justification for
5 increased taxes, I would agree, but I don't think
6 the considerations at hand are not adequate to
7 persuade the public just as we have today in this
8 city about school taxes. We recognize it as a public
9 requirement and that fact itself is influential
10 on those who are carrying out the mandates of the
11 public. I think that you are not giving due concern
12 to the different relation that you sustain from
13 those which are sustained towards a private
14 employer.

6 15 Have you ever read about the police
16 strike in Boston?

17 MR. HUGGETT: I have heard references
18 to it.

19 THE COMMISSIONER: I am not going to
20 dwell at any length on that, but there is one
21 circumstance which to me was most remarkable. Inside
22 of 48 hours they had to produce a police force
23 organized by a private individual, the citizenry
24 of Boston. They had the vigilantes which were a
25 characteristic feature of the west when they were
26 living in a lawless state and the frontier went
27 west. There was this to be remarked upon that too,
28 that the body of theft was chargeable against the
29 middle class. So you see what a strike of policemen
30 will do. What about a strike of the members of the

1 defence forces? Would you tolerate that? Would
2 they demand it? And yet they have not even an
3 arbitration board to assist them.

4 MR. HUGGETT: There are exceptions.
5 For instance, we had to agree with the Emergency
6 Measures Organization which has now become part
7 of the Metro government that if there was an
8 emergency ---

9 THE COMMISSIONER: Who is going to
10 determine that?

11 MR. HUGGETT: We spelled this out in
12 the contract and we agreed, with permission from
13 the Lieutenant Governor ----

14 THE COMMISSIONER: Here you say on
15 page 21:

16 "we offered to supply the
17 electrical energy and skilled
18 tradesmen to all essential
19 locations".

20 Who is to decide this?

21 MR. CUMMINGS: We submitted to the
22 Ontario Hydro what we considered to be essential
23 services and said at the time that we were prepared
24 to sit down and go into detail of discussing those
25 services if they felt that our suggestions were
26 wrong.

27 THE COMMISSIONER: Not necessarily
28 would you be persuaded.

29 MR. CUMMINGS: No, but we offered to
30 sit down and carry on discussions. They completely

1 refused that and in their brief to this very
2 Commission they very conveniently did not state the
3 fact that we had made the offer in detail to them
4 and a few days later when they answered our proposal
5 they just in essence stated that there were no services
6 that they considered to be non-essential.

7 MR. POLLOCK: On this point what
8 services are you eliminating if you include all
9 domestic supply, all light and heat supply of all
10 industry, full supply to hospitals, hostels, hotels,
11 motels, refrigerated food plants or plants processing
12 perishable goods and foods or drugs? Now, "all
13 industry", that includes all light and heat.

14 MR. CUMMINGS: Light and heat, but not
15 production power, in other words, power to run an
16 assembly line.

17 MR. POLLOCK: How do you tell the
18 transmission people not to go into some other place?

19 MR. CUMMINGS: It can be arranged.
20 If you tell the employer you are only going to supply
21 him so much power and the Ontario Hydro did this
22 during the wartime and after the wartime when we had
23 our power shortages, they told people and they told
24 prime customers, "We will supply you with so much
25 power".

26 MR. POLLOCK: Well, the stuff runs
27 through the line. What if they use it? If before it
28 gets to you I tap it all off you don't get any.

29 MR. CUMMINGS: The point is this can
30 be done. There are ways in which it can be done and it

1 was done during the wartime and after the wartime where
2 you told customers when you put your power meters and
3 your peak demands you put them in such a place that
4 you can tell the person exactly what he is entitled
5 to receive.

6 MR. POLLOCK: What if he wants to receive
7 more?

8 MR. CUMMINGS: If he receives more than
9 that, it is like you do in your house if you take more
10 power than the fuses allow the fuses go out and you
11 have no power, and this can be done.

12 THE COMMISSIONER: And you think --- let
13 me begin this way: what your pressure is exerted
14 upon is the public, isn't it?

15 MR. CUMMINGS: Quite honestly, the vast
16 majority of strikes directly or indirectly affect the
17 public.

18 THE COMMISSIONER: I know, but answer my
19 question: your effective and substantial influence is
20 intended to be effected on the public.

21 MR. CUMMINGS: No.

22 THE COMMISSIONER: Well, I don't know what
23 you mean then by saying that you would strike the
24 Hydro because it would be substantially the public in
25 this province.

26 MR. CUMMINGS: You could say that about
27 any strike.

28 MR. POLLOCK: No, you can't.

29 THE COMMISSIONER: No, you can't say that
30 about any strike.

1 MR. POLLOCK: One of the purposes in a
2 strike clearly in an area that is making profit is to
3 reduce their profit. Now, if the Hydro aren't making
4 profit the only thing they can do is supply services
5 to other areas on a service basis, they certainly get
6 paid for it, but they are not out for the business
7 to keep the rates up to make money. You put the
8 pressure by cutting off the power at Ford Motor
9 Company so that they can't produce. The pressure then
10 comes from Ford Motor Company, it says, "Please settle
11 your dispute because we can't produce our cars", and
12 you cause an inconvenience to the public element, not
13 to Hydro. All the officials of Hydro have got their
14 domestic supply and they are not concerned so your
15 pressure is directed against the public.

16 MR. CUMMINGS: So do all the employees at
17 Ford have their own power supply.

18 MR. POLLOCK: Ford is brought into this,
19 it is just a stranger, it just happens to be one who
20 uses electric power.

21 THE COMMISSIONER: Take a strike of the
22 railway, that is directed not at the railways,
23 particularly the Canadian National Railways, because
24 you are paying taxes for the millions of dollars that
25 are paid every year above revenues to keep it going.
26 So the pressure is against the public. Now, how many
27 unionists have you in the province who are associated
28 with Hydro who would determine whether to*
29 strike or not?

30 MR. CUMMINGS: 9,000.

1 THE COMMISSIONER: Against what, 7,000,000
2 in the province?

3 MR. CUMMINGS: Yes.

4 THE COMMISSIONER: Do you think that any
5 such minority should have that power?

6 MR. CUMMINGS: They should have the right
7 to sit down and negotiate, as we did, for some 16
8 months, three days a week to the point where the Ontario
9 Hydro at that time were, in my honest opinion,
10 endeavouring to hold the line and end up being the
11 outstanding example to all utilities on how the line
12 should be held and were using this particular group
13 of employees as the example in this display. I say
14 that that group of employees has the right to say,
15 "We are going to withdraw our services".

16 THE COMMISSIONER: They could, there is
17 no obligation to be slaves or serfs, but as I say,
18 you do more than that: you say, "We are going to
19 throttle you until you yield to our demands".

20 MR. CUMMINGS: And they can sit there and
21 say at the same time, "We are not going to give you
22 a reasonable settlement", and at the time it was
23 interesting to note, by the way, when the arbitrator
24 was finally appointed, Carl Goldenberg, who I think
25 must be considered as a rather capable person in
26 labour relations ---

27 THE COMMISSIONER: There is no doubt of that
28 at all.

29 MR. CUMMINGS: Even he, by the way,
30 recognized that their proposals were far short of what

1 was reasonable, but even he, as knowledgeable as he
2 was, didn't understand the dispute even to the point
3 in one particular case that he gave the union more
4 than what they had asked for.

5 THE COMMISSIONER: How do you know he
6 did it under a misapprehension?

7 MR. POLLOCK: Maybe he thought you weren't
8 asking for a reasonable rate.

9 MR. COMMINGS: Quite honestly, we
10 ourselves had admitted before that point that there
11 was reasonable relationship for a particular group of
12 people and that relationship, by the way, after his
13 award was re-established, but when he brought down
14 his award, because he didn't understand the background
15 relationship, he gave a general award to a group of
16 people which was beyond what was requested.

17 THE COMMISSIONER: In the railway dispute
18 which he conciliated the three or four unions refused
19 to accept it. They wanted to go to arbitration rather
20 than accept his judgment and subsequently I think they
21 did reach a settlement because they rendered the
22 arbitration unnecessary. But you see when you talk
23 about reasonableness you are assuming it from your
24 own point of view and that is where I think the
25 difference between arbitrators and ordinary people
26 who have an interest to serve appears. The arbitrator
27 is the man who can see your position as well as you
28 can from your point of view, and he can see my
29 position as well as I can from my point of view.
30 That requires a very skilled man.

1 MR. CUMMINGS: Who could you get in the
2 country as a whole who would be more capable and even
3 Mr. Goldenberg couldn't grasp that situation.

4 THE COMMISSIONER: It was inadequately
5 presented to him.

6 MR. CUMMINGS: Not in my opinion. It was
7 quite adequately presented to him and in one particular
8 case he made a complete error.

9 MR. POLLOCK: Maybe if he had had more
10 experience in this particular field he would not make
11 the same mistake again.

12 MR. CUMMINGS: Maybe, sir, for instance
13 in that particular dispute in 1961 when we started
14 into negotiations and it became apparent a few months
15 after we were in negotiations that the employer was
16 going to hold the line and be the example for all
17 that a capable mediator be brought on the scene and
18 not brought on the scene as was the Minister of Labour
19 some day and a half prior to a strike deadline and
20 then spend half a day worrying about what was the
21 description of assential services, rather than trying
22 to resolve the dispute. If a mediator was brought o
23 the dispute at the time when the eruption started to
24 take place, something could have been accomplished, but
25 by the time he landed on the scene ---

26 THE COMMISSIONER: Did you ask for it?

27 MR. CUMMINGS: We asked for conciliation
28 services some four months after negotiations got
29 started when it was apparent that the employer said to
30 us although everyone else was getting settlements of

1 some type, five cents or seven cents: "You are now
2 overpaid and we are offering you nothing".

3 THE COMMISSIONER: From their point of
4 view it was reasonable to maintain that level.
5 From your point of view it wasn't. How are you going
6 to decide these things at all if you are not going
7 to take the opinion of independent minds? That is
8 the best thing we can do in this situation.

9 MR. CUMMINGS: Conversely, sir, although
10 you say the union may have a very strong right, the
11 employer also has a strong right in the area of
12 compulsory arbitration if the employer is consistently
13 going to sit back and make no movement.

14 THE COMMISSIONER: You can't tell me
15 that there is no body --- I don't know, but I would
16 be very much surprised to know if those who direct
17 the Hydro of this province which has established its
18 worth over the last 50 years, that those people are
19 wholly unreasonable and that they never are willing
20 to accede to something that is reasonable objectively.

21 MR. CUMMINGS: I must suggest, sir, that
22 this was part of the evidence presented at that time
23 of what had happened to our relative positions and
24 at the time you will note where we have gone from
25 fourth or fifth spot in relation to utilities in
26 the province to eighteenth position and accompanying
27 that was an offer of no wage increase. Now, if that
28 cannot be considered as being unreasonable, then I
29 don't know what the word really means.

30 THE COMMISSIONER: Well, you got the

1 increase how? Did you strike?

2 MR. CUMMINGS: No, we got an increase
3 through compulsory arbitration which was more than
4 the employer was prepared to offer, but it was not
5 sufficient in our view to re-establish the relative
6 position that we deserved to be in and had been in.

7 THE COMMISSIONER: Relative to what?

8 MR. CUMMINGS: To other utilities and
9 other employers in this province, and this is the
10 basis upon which we normally negotiate.

11 THE COMMISSIONER: You see the public
12 utility has always occupied a special relation to the
13 public. It couldn't charge unreasonable rates, it is
14 limited in the profits that it can obtain, it has
15 no application whatever to the purely private
16 industrial sector, but here you have that arising from
17 the fact that it is a virtual monopoly and therefore
18 it is controllable as to prices. Now, the wages must
19 be related to the prices that are authorized for which
20 it can charge. Otherwise you can say, "We can agree
21 with the manager of this public organization on any
22 scale of values we please so long as we can influence
23 them". Why? Well, all they have to do is to turn it
24 over to the public and increase prices.

25 MR. CUMMINGS: To be quite honest, I don't
26 think the relations of public utilities with the public
27 have betrayed that type of approach. I think over
28 the years we have taken a reasonable approach and it
29 has not been an unreasonable approach to the community
30 as a whole, and as far as providing services and

1 dedication and so on down through the years, I think
2 our record stands us in good stead as well, and the
3 rates, if I can speak for the Ontario Hydro alone,
4 are the best rates in the free world.

5 THE COMMISSIONER: No doubt of it, that
6 is because it is a public institution.

7 MR. CUMMINGS: That has to rest in the
8 hands of and be credited to the employees in full.

9 MR. BLACKBURN: Sir, with no disrespect,
10 although you mentioned the fact that public utilities,
11 Hydro or public employees go on strike and have the
12 right to strike, but they are directing their strike
13 against the public and you mentioned the Ford plant
14 for one, do you not think that the Ford plant who
15 are not faced with compulsory arbitration when they
16 go on strike are not directing their strike against
17 the public? What happens in a municipality that has
18 a fleet of trucks and equipment that must be replaced
19 or repaired?

20 MR. POLLOCK: It goes to General Motors.

21 MR. BLACKBURN: It is pretty hard to get
22 a General Motors part on a Ford, and I have seen half
23 a dozen pieces of equipment right in our own yard
24 in Niagara Falls tied up, back ordered for parts and
25 the job could not be carried on. Therefore, the
26 public themselves would be jeopardized and being
27 penalized because the equipment was not on the road
28 giving the essential service that these people
29 deserved.

30 MR. POLLOCK: What portion of the public ---

1 the public that happens to have a Ford motor car that
2 has broken down, that can't get repairs?

3 MR. BLACKBURN: I don't mean that, I am
4 speaking of the municipality, the service.

5 MR. POLLOCK: That part of the public is
6 the public that deals exclusively with Ford Motor
7 Company and can't get the part anywhere else and can't
8 get the truck repaired at that time. Now, you are
9 talking about --- Ford Motor Company was an example.
10 It is also every other manufacturer in the Province
11 of Ontario and also every other industry, not only
12 manufacturing, in the Province of Ontario with the
13 exception of refrigerated goods or drug producers,
14 food.

15 MR. BLACKBURN: What I was trying to prove
16 with Ford is I don't mean even an individual person
17 who buys a Ford product. I mean a municipality and, as
18 you know, in a democratic municipality the tenders
19 for equipment go up for bids. It might happen and as
20 it happened in Niagara Falls, they happened at that
21 time to get a better buy from the Ford Corporation,
22 so they bought a fleet of Ford trucks. Part of these
23 were sanitation vehicles, and the people were away
24 behind, they had no proper collection, and the City
25 of Niagara Falls which is 90 percent tourist industry,
26 things were in a very bad condition because the
27 corporation happened to accept the bid from Ford and
28 buy a fleet of trucks from Ford, Ford were on strike,
29 and therefore their equipment that was broken down
30 could not be repaired and I mean it in this way.

1 You said also before that we of the public feel that
2 our people enjoy permanency. This I have to disagree
3 with again, sir, the permanency of being a public
4 employee, whereas if you are in industry you are
5 subject to layoffs, depressions, et cetera. There is
6 no such a thing as permanency in a public employee.
7 Constantly and through the last recent years there has
8 been contracting out of different departments, so where
9 is your permanency?

10 THE COMMISSIONER: It is more permanent
11 than any other part of Canada, if that is so. I have
12 seen them spend their lives in public employment.

13 MR. BLACKBURN: But there is no permanency.

14 THE COMMISSIONER: What do you mean by
15 permanency in that sense?

16 MR. BLACKBURN: If the union is bargaining
17 for a raise in pay, we will say the sanitation
18 department, that happened in Niagara Falls, it
19 happened in Fort Erie, it was threatened in Niagara
20 Falls, it happened in Hamilton, they don't care if you
21 are permanent or have 10 or 30 years, they contract
22 out the job of sanitation to an outside private
23 industrialist who comes and collects your garbage and
24 therefore 40, 50 or 200 people are laid off in that
25 department because there is no job left for them with
26 the municipality, so where is your permanency?

27 THE COMMISSIONER: Because you insisted
28 on a level of wages which was considered to be
29 outrageous.

30 MR. BLACKBURN: Can you show me a level of

1 wages in civic employment that compares with other
2 people? We must go to a store and buy our bread and
3 butter and pay rents and taxes the same as other
4 people in the municipality. We are only asking for
5 a fair working wage and working conditions to keep up
6 with the rest of the community. We have to go to war
7 and fight for this country if there is a war on.
8 Nobody asks you if you are a civic employee or if you are
9 a preferred person. I put in five years in the Army
10 getting shot at, but still when I come back to work
11 for this country and pick civic employment as my
12 field of endeavour because I think it is a worthwhile
13 work, then I don't know if you could put a word on
14 it --- they just use you because you are a public
15 employee and you have to be a second-class citizen.
16 That is the only way I can say it. You have got no
17 permanency because they hold over your head the fact
18 that if you don't accept the wage they give you they
19 will contract the job out to somebody else and you

20 *[Faint text]*

21 MR. POLLOCK: Is it not true that the
22 Hydro pay in the upper quartile, whatever that term
23 may mean? Is it equivalent to industry?

24 MR. CUMMINGS: Yes, if you can consider
25 or determine what the quartile is. It is a Hydro
26 phrase. I suppose we have helped in its development
27 as much as anybody else, but it is a matter of
28 determining what the quartile is. It is a matter of
29 what you want to put into that mix to determine the
30 quartile. We have had our disputes down through the

1 years like should certain employers be considered
2 comparable for the purpose of determining the whole,
3 and we have had a good number of arguments regarding
4 whether you are inside or outside the upper quartile.

5 THE COMMISSIONER: Would you mind telling
6 me how do you spell that word? I am not acquainted
7 with it.

8 MR. CUMMINGS: Q-u-a-r-t-i-l-e.

9 THE COMMISSIONER: What does it mean?

10 MR. CUMMINGS: It is supposed to mean at
11 the 75 percent mark or above.

12 MR. POLLOCK: The upper quarter. "Quartile"
13 makes it peculiar to Hydro.

14 THE COMMISSIONER: Have they any department
15 for coining words?

16 MR. CUMMINGS: I think so.

17 MR. POLLOCK: They also manufacture the
18 job titles too, I understand.

19 MR. CUMMINGS: They surely do.

20 MR. BLACKBURN: We have hospital people
21 who are facing compulsory arbitration who are the
22 lowest-paid people.

23 MR. POLLOCK: They are in the lowest
24 quartile.

25 I look at this list of the relative
26 position of Ontario Hydro from 1957 to 1961, and I see
27 that the Sault is always the highest. That is because
28 of its isolated position, is it?

29 MR. CUMMINGS: No, it is because that
30 particular community --- and you can look at wages in

1 general --- it is either Sault Ste. Marie or Sarnia
2 which are the cities that pay the highest wages month
3 by month. Sarnia will be ahead one month and the Soo
4 will be ahead the next month because of the high
5 proportion of skilled people working in the steel
6 industry in that city

7
8 MR. POLLOCK: Why is Sudbury so low then,
9 if that is the case?

10 MR. CUMMINGS: Sudbury, of course, is not
11 in the steel industry. You will find that either Sault
12 Ste. Marie or Sarnia --- now again Sarnia does not
13 fit into this quartile, but you will find that on an
14 average Sarnia when you look across the country is
15 either first or second in average income.

16 MR. POLLOCK: I think that this recent
17 Algoma strike might reduce them from their first
18 position.

19 MR. CUMMINGS: It may or may not.

20 MR. POLLOCK: Really the appearance of
21 this gradient really in 1957 is very steep from the
22 top to the bottom which I think is well and the most
23 significant change is that all the others are coming
24 up, and that now which I think is Guelph, and now in
25 1961 there is a very shallow gradient between the top
26 one, the Soo, and the bottom one, London. It is 30¢,
27 it appears here, \$2.60 to \$2.90 and in 1957 it was
28 \$1.60 to \$1.65.

29 MR. CUMMINGS: If you were looking at
30 London, it was \$2.60, as compared to approximately \$2.20,
and \$2.90 ---- there is a 30¢

1 difference in one case and a 40¢ difference in the other
2 case using those two cities.

3 MR. POLLOCK: Are you quarrelling with the
4 fact that you were in 1961 eighteenth?

5 MR. CUMMINGS: No, we stated that our
6 relative position should have been up with the best as
7 far as utilities were concerned. Now, these are just
8 utilities.

9 MR. POLLOCK: You were not very far back.

10 MR. CUMMINGS: We were eighteenth.

11 MR. POLLOCK: But you were up to that area.
12 The difference between the eighteenth and the eighth
13 is only about 5¢.

14 MR. CUMMINGS: Oh, no, \$2.70 to \$2.90.

15 MR. POLLOCK: No, you count down to
16 Windsor, which is eighth, and that is roughly about
17 \$2.70, isn't it?

18 MR. CUMMINGS: Yes.

19 MR. POLLOCK: And you are eighteenth.

20 MR. CUMMINGS: Yes.

21 MR. POLLOCK: Which is a little bit better --

22 MR. CUMMINGS: \$2.62, I think it was.

23 MR. POLLOCK: There is about 5, 6, or 7¢
24 between the eighth and the eighteenth.

25 MR. CUMMINGS: Yes.

26 MR. POLLOCK: So relatively you are not
27 so bad. You may be numerically down the list because
28 of a fractional difference. You are not in as bad
29 shape as the people who were eighteenth in 1957.

30 MR. CUMMINGS: No.

1 MR. POLLOCK: You are achieving something
2 which I think is very highly desirable. It looks like
3 everybody is levelling off at a higher rate. Everybody
4 is averaging up, they certainly are not averaging down.

5 MR. CUMMINGS: I think the labour
6 movement as a whole deserves some credit there.

7 MR. POLLOCK: Yes, I think that is true.

8 MR. CUMMINGS: Quite honestly, I mean
9 without being overly biased I think the Ontario Hydro
10 people in the classifications where they have comparable
11 classifications with utilities in this province should
12 be paying the top rate, because they work in these
13 same municipalities and they perform work at least
14 on an equal skill level, if not on a higher skill
15 level as far as utilities are concerned.

16 MR. POLLOCK: Do you think that employees
17 who work, Hydro employees who work in London ought to
18 be paid the London rate and those who work in the Soo
19 ought to be paid the Soo rate?

20 MR. CUMMINGS: No.

21 MR. POLLOCK: You think they ought to be
22 all paid the high rate no matter where they work?

23 MR. CUMMINGS: That is right because they
24 can be called upon to work any place.

25 MR. POLLOCK: Well, they could have the
26 rate adjusted if they were called upon to work in the
27 higher place.

28 MR. CUMMINGS: But the point is they could
29 be called upon to move their families and so on and
30 live throughout the province.

1 MR. POLLOCK: But if they are called to
2 work in a low-paying area ---

3 MR. CUMMINGS: That is not their fault,
4 their skills do not vary and wherever they receive a
5 rate of pay if that skill is worth that much money it
6 should apply the same across the province as a whole.

7 MR. POLLOCK: Then why should it be the
8 highest rate? Why should it be the Soo rate? Why
9 should it not be an average of them all?

10 MR. CUMMINGS: Because if they are
11 performing the work in Sault Ste. Marie and it is found
12 in Sault Ste. Marie or Sarnia that this is considered
13 to be a reasonable rate of pay for that level of
14 skill, then they should receive that and because they
15 just happen to be working in another location and
16 providing the same level of skill they should not be
17 downgraded, because the people who happen to be
18 living in that area perhaps may be in the Ottawa Valley
19 or someplace are not because there is no industry or
20 a lack of industry or depressed industries they should
21 not have to take less money for the providing of that
22 same skill.

23 THE COMMISSIONER: I don't see anything
24 more in that than mere assertion. You don't give any
25 logical justification for taking the highest in the
26 province and saying that is what the government has
27 got to pay.

28 MR. CUMMINGS: What I said was this: you
29 are providing a level of skill ---

30 THE COMMISSIONER: That would require an

1 investigation into special factors at Sault Ste. Marie.

2 MR. CUMMINGS: Yes.

3 THE COMMISSIONER: I don't know what they
4 are, but those factors may be peculiar to that sector.

5 MR. CUMMINGS: The union are prepared and
6 have offered to go out and actually conduct surveys
7 to make sure that when we are talking about apples that
8 they are apples the same in all locations.

9 MR. POLLOCK: I am interested again on
10 the basis of supplying these essential services ---

11 MR. CUMMINGS: By the way, I could give
12 you a copy of our letter that was submitted and their
13 answer.

14 MR. POLLOCK: Well, let the record show
15 that the list of the comparative gradients from 1957
16 to 1967 is Exhibit 1 and this letter from the Hydro-
17 Electric Power Commission of April the 2nd will be
18 Exhibit 3, and the letter from the union of March the
19 2nd will be Exhibit 2.

20
21 ---EXHIBIT NO. 1:

List of comparative
gradients from 1957
to 1967.

22
23
24 ---EXHIBIT NO. 2:

Letter dated March 2
from the union.

25
26
27 ---EXHIBIT NO. 3:

Letter dated April 2
from Hydro-Electric
Power Commission of
Ontario.

1
8 THE COMMISSIONER: Have you nothing to show
2 the annual earnings of, take, the Hydro employees whom
3 you represent?

4 MR. CUMMINGS: Their average annual
5 earnings?

6 THE COMMISSIONER: Yes.

7 MR. CUMMINGS: I don't have it with me, sir.
8 You will find that normally in that type of utility
9 the average earnings appear among the better in the
10 province because they are called upon consistently
11 and regularly to work extended periods of overtime
12 and on-call work and so on in the evenings.

13 THE COMMISSIONER: I realize this, but
14 what are the specific figures?

15 MR. CUMMINGS: At the moment I couldn't
16 tell you.

17 THE COMMISSIONER: Could you supply this
18 to us?

19 MR. CUMMINGS: Yes, I could.

20 THE COMMISSIONER: I would be much
21 obliged if you would do so.

22 MR. CUMMINGS: I will do that.

23 MR. POLLOCK: Would it be in excess of
24 \$5,000?

25 MR. CUMMINGS: At the moment it would.

26 MR. POLLOCK: In excess of \$7,500?

27 MR. CUMMINGS: No.

28 MR. POLLOCK: So it is in that area.

29 MR. CUMMINGS: Yes.

30 THE COMMISSIONER: It is different for

1
2 each department?

3 MR. CUMMINGS: Yes.

4 THE COMMISSIONER: You deal with each
5 department?

6 MR. CUMMINGS: What I will do is pick out
7 a classification and then I will try and show them
8 across the wage curve.

9 THE COMMISSIONER: Well, show them by the
10 year because so much an hour doesn't mean very much.
11 It would depend on whether they have layoffs --- I
12 don't suppose they do.

13 MR. CUMMINGS: Oh, yes.

14 THE COMMISSIONER: That is one thing that
15 would involve the word "permanency".

16 MR. CUMMINGS: They do have layoffs.
17 Automation is affecting it.

18 THE COMMISSIONER: I don't mean a permanent
19 layoff.

20 MR. CUMMINGS: We have seasonal layoffs as
21 well. We have employees who are hired, for instance, to
22 do forestry work and particular types of line work at
23 particular times of the year because it is only
24 accessible at certain times of the year.

25 THE COMMISSIONER: Then on the average
26 there would be for the normal period of their employment.

27 MR. CUMMINGS: Yes. There are people, for
28 instance, who have four or five months a year layoff
29 and they have worked with the Ontario Hydro for 20
30 years or so.

MR. POLLOCK: On the slash and things like

1 that.

2 MR. CUMMINGS: Well, in forestry work, for
3 instance.

4 THE COMMISSIONER: And then there are
5 others who have winter employment.

6 MR. CUMMINGS: They go back to their homes.

7 THE COMMISSIONER: But that is
8 characteristic of their contract of employment that
9 they will be working only so long during the year.

10 MR. CUMMINGS: My point is they are public
11 employees nonetheless.

12 THE COMMISSIONER: Certainly they are while
13 they are working.

14 MR. CUMMINGS: They have a seasonal
15 condition that can apply to them just as much as it
16 might apply at Massey-Ferguson.

17 THE COMMISSIONER: Apart from that I would
18 like to know what they get while they are working.

19 MR. CUMMINGS: We will supply that.

20 MR. MARTIN: Mr. Chairman, it would appear
21 that you have an opinion that there is a degree of
22 permanency in the public employ. Mr. Blackburn down
23 here has expounded his views on it and I think it is
24 fair and I think if this is your opinion, sir, you
25 should look into it a little more thoroughly. There
26 is no permanency as far as public employees are
27 concerned in any field of endeavour in the public service.
28 We have instances of contracting out of garbage --- I am
29 sorry, sanitation. We have instances of contracting
30 out of municipal construction and rather than permanency

1 in the public employ there it is rapidly entering the
2 area of no permanency whatsoever because you never
3 know when your job is going to go.

4 THE COMMISSIONER: What you really mean is
5 that there will be no public employees at all.

6 MR. MARTIN: I would suggest to you that
7 if some municipal corporations could have their way
8 this would be true: everything would be contracted out.

9 THE COMMISSIONER: What is the justification
10 from the point of view of the managers of the
11 municipality?

12 MR. MARTIN: I can't figure it out myself,
13 sir.

14 MR. POLLOCK: No administration, that must
15 be it.

16 MR. MARTIN: No administration, this is one
17 thing, they could run with a very small staff.

18 THE COMMISSIONER: But they make a contract
19 with a company to do, say, the sanitation on certain
20 terms. They don't guarantee anything, do they? Is it
21 in the nature of some sort of franchise to do this kind
22 of work?

23 MR. MARTIN: Oh, yes, it is a contract.

24 THE COMMISSIONER: Do the city pay it?

25 MR. MARTIN: Yes.

26 THE COMMISSIONER: Well, then, the city
27 must do this because it is cheaper.

28 MR. O'KEEFE: And they may do it for a
29 variety of reasons. For instance, the contracting out in
30 certain municipalities in the United States has been done

1 because of a profit to the public service.

2 MR. POLLOCK: A corrupt practice.

3 MR. O'KEEFE: A corrupt practice, exactly.

4 If our public service --- and fortunately in Canada
5 we are pretty fortunate I think in the calibre of our
6 people and the lack of corruption --- that it enters
7 into the field where the public relations men of these
8 people who want to make a buck out of public service
9 get into the act. There are many reasons why they
10 would contract out. One is lack of enterprise on the
11 part of government employees.

12 THE COMMISSIONER: Where you have a case
13 of that how do you know that?

14 MR. O'KEEFE: I know this, for instance:
15 if you take the City of Toronto Testing Laboratories,
16 they have had a testing laboratory for nearly 50 years
17 in which they have tested their own equipment, various
18 kinds of equipment that the city buys from various
19 contractors. Most recently they have contracted out
20 this service to a private enterprise operation and I
21 state principally because the municipality itself
22 was not enterprising enough to maintain this very
23 necessary public service. They let this thing just
24 fade away because of a lack of enterprise. For
25 instance, the City Testing Laboratories would test
26 the standard of asphalt concrete and the various other
27 products that the city buys. Now, they also provided
28 these testing services for the metropolitan government
29 and then you would find the Municipality of Etobicoke
30 would have their own private enterprise testing

1 contractor, North York would go its own way. The City
2 of Toronto did not have sufficient enterprise to go
3 out after this kind of business to keep their testing
4 laboratories as a going concern. The question of
5 contracting out is of particular concern to public
6 employees from their own selfish point of job security.
7 That is one. I think it is also of great concern to
8 the good citizen who wants to see good municipal
9 government and I think the record in several places is
10 that when the contractor moves in to make a buck out
11 of public service corruption moves in with him.

12 MR. MARTIN: If I could just pursue this
13 point a little bit farther, Mr. Chairman, on this
14 contracting out of municipal services. We not only
15 oppose contracting out because we are looking for
16 job security, but you will find --- and I would strongly
17 suggest, sir, that this possibly should be a point of
18 your investigation ---- we will take sanitation
19 services: I come from a municipality where our per
20 capita cost of sanitation services is among the
21 lowest, if not the lowest, in the whole province, and
22 fortunately because of this reason we are not faced
23 with contracting out, but other municipalities have
24 contracted out their sanitation services at a supposed
25 cost, a saving to the taxpayer because a private
26 enterprise organization will come in and say, "It
27 costs you \$2.35 now per capita to pick up your refuse.
28 We will do it for you for \$2.30". But what happens
29 when the private enterprise organization comes in?
30 They come in and they do it strictly according to the

1 bylaw, strictly to the sanitation bylaw and you find
2 the taxpayer after the private enterprise organization
3 has been in there for a period of time most dissatisfied
4 with the service because they are working strictly to
5 the bylaw. The extra added service that has been
6 previously given by the public employees is no longer
7 there.

8 THE COMMISSIONER: I agree, but that is
9 really a matter of public policy. Undoubtedly, you
10 can't ask the city to undertake every collateral or
11 subsidiary activity that may be relevant to its job
12 of governing a certain number of people in a certain
13 territory. For instance, you certainly would not
14 parcel out or contract out the management of the
15 highways, would you? Or today probably the lighting
16 where ~~the~~ city owned it or the water works. But when
17 you say, as has been suggested, that you ought to set
18 up the separate laboratories to make all sorts of
19 tests there is no limit to what a city can do. They can
20 like, a / ^{large tree} branch out into everything that can be
21 looked upon as affecting in any degree the management of
22 the city. You must, as a matter of policy, decide
23 upon the exclusion of some and the inclusion of others.

24 MR. MARTIN: But, sir, if the service
25 exists, then going back to your statement about the
26 security of office as a public employee, if the job
27 exists and then they start contracting out this is an
28 argument against what you said, sir, and there is no
29 security.

30 THE COMMISSIONER: Yes, if it reaches the

1 point where the work can be done more to the benefit
2 of the public than by a city administration, then the
3 obligation on the council, say, is to select that, but
4 the public interest, I would say, is primarily the
5 influential factor and that public interest is a
6 matter of political consideration.

7 MR. BLACKBURN: This is where it is not
8 working out, sir.

9 THE COMMISSIONER: That may be, and if it
10 is not working out, the citizens will learn of that
11 fact.

12 MR. BLACKBURN: It is pretty hard, once
13 you have a contract for two years to haul garbage ---

14 MR. POLLOCK: Sanitation services.

15 MR. BLACKBURN: I have fought for five
16 years to have that painted on the side of their trucks.
17 They contract out garbage for instance. The reason
18 they have got into contracting out, you have made the
19 statement that it would be cheaper, certainly it is
20 cheaper but it is cheaper by exploitation because the
21 contractor comes in and he has no organization that
22 is fighting for his employees, he accepts all the
23 immigrants that we generous Canadians bring into the
24 country who deserve to make an equal living the same
25 as the rest of us, they come into the country, most
26 of them are illiterate, most of them are not conversant
27 with the English language as they should be, they
28 have to accept a job in order to live wherever they
29 can get a job, so consequently the contractor grabs
30 these types of people up. In the City of St. Catharines

1 where they collected their own garbage with a 40-hour
2 week and a reasonable rate of pay because some of the
3 unqualified people we get in municipal governments,
4 they run a popularity contest and get elected and
5 they know about as much about running a city as that
6 chair, so maybe their brother-in-law is the contractor,
7 in fact this has been proven out. The contract goes to
8 the contractor, he picks up a bunch of immigrants,
9 they went from a 40-hour week to a 44-hour week in the
10 winter, a 48-hour week in the summertime, the rate of
11 pay dropped by 80¢ an hour, they had no coverage for
12 P. S. I. or hospitalization, they had no pension plans,
13 they had no group insurance which I think everybody
14 in the country enjoys and they should enjoy themselves.
15 Consequently, these people finally work for a year
16 and get dissatisfied and the next thing you know they
17 are organized. They form a union, get certified and
18 the next thing you know they are on strike. Who
19 suffers again? The public. When you are working under
20 a municipality as a permanent employee the municipality
21 and the taxpayer himself has some control over you
22 because if you are not doing the job properly they
23 phone the city hall and the city hall has the full
24 authority under the contract of the union to
25 discipline you or to transfer you or to fire you if
26 you are not doing your job, but once you sign a
27 contract with the contractor he has got a contract for
28 two years and he guarantees a minimum level of service
29 and if you complain there is no use you going out and
30 complaining to that truckdriver or phoning the city hall,

1 because their hands are tied. The man who is gathering
2 the garbage is solely responsible for that contract
3 and not the municipality.

4 THE COMMISSIONER: Of course that goes
5 right back to the matter of democratic government which
6 is the majority voice in the city and they desire
7 to have men who will keep their taxes low.

8 MR. BLACKBURN: That is right, but it is
9 not cheaper in the long run.

10 It is not right. Surely that is not
11 the function of the city as such. We do not do this
12 just to keep taxes low. We want to create for our
13 children a better society, a better community, and if
14 this means that people have to pay more taxes, then
15 this is what it has to be. I think it is wrong for a
16 public servant to enter the field on the basis that
17 he is going to reduce taxes or he is going to keep the
18 tax rate at a particular level. I think he has to
19 enter as a public servant who is going to provide his
20 community with good service, with some foresight and
21 some planning and this is going to cost money.

22 Otherwise, we are going to let our communities die out
23 and we are not going to provide for recreation, the
24 arts and what have you in our society. This was an
25 old concept, I think, that fortunately is not quite
26 so evident nowadays.

27 MR. POLLOCK: I suppose you say as well
28 that it is easier to get out of a business than it is
29 to get back into it and if you contract out the
30 sanitation services to a particular company today at what

1 would be a saving or a fairly good rate in five or ten
2 years after you have then discontinued purchasing new
3 equipment or buying new equipment and having those
4 employees, then the contractor is in the position of
5 saying, "Well, I am going to increase my rates and it
6 will cost you so much more to get back into the
7 business yourself that you are going to take my price".

8 MR. O'KEEFE: This happened in the City
9 of Ottawa.

10 MR. HUGGETT: It is interesting that the
11 City of Montreal kept their asphalt plant, although
12 they didn't use it just for the purpose of keeping
13 the price up. They could always say, "Well, we will
14 go back into the business ourselves".

15 MR. BLACKBURN: Just because we are on
16 sanitation which is quite a bug with public employees
17 because this is the area where they first start
18 contracting out most equipment is equipment that is
19 absolutely useless for the municipality to do any other
20 type of work with. Consequently, when the contractors
21 come in they will buy the equipment off the
22 municipality at about half the cost of what it reasonably
23 costs. If you have a fleet of 30 trucks and 60 men,
24 when the contractor takes over if you are dissatisfied
25 with him he has the municipality and the taxpayer
26 over a barrel because you no longer have the men
27 available that are trained, you no longer have the
28 equipment that you had. So therefore if you want to go
29 back into the business for yourself it is almost
30 impossible because you have to turn around and spend

1 where you pick up a truck here and a truck there over
2 a period of years, a fleet of 40 brand-new trucks at
3 a fantastic cost, you have to hire enough men, 60 or
4 70 men. These you will have to weed out over a
5 period of a year and find that about 30 of them are
6 unqualified and are absolutely useless to you and you
7 will have to either lay them off or fire some of them
8 for misconduct. It takes you maybe ten years to
9 return. People think that civic employees are just
10 common labourers, but I must say they are the most
11 versatile group in any municipality. If you work in
12 the Ford plant and you are on the assembly line you
13 have a certain function which you do and you do well.
14 You could be a welder or anything else, but a civic
15 employee has to be versatile enough today --- in my
16 own case I am a truckdriver, I drive a 10-ton truck,
17 but I not only drive a truck, if that truck is
18 laid up today, I will ^{be} / shoved onto a front-end
19 loader. It might be a Chase or any other variety of
20 equipment and we happen to have four different makes
21 and you have to know how to operate all four of them.
22 I might have to operate a flasher which is a right-
23 hand drive and most trucks are left-hand, I have to
24 go out on the bulldozer and also run tractors and
25 so on, and snow loaders, Barbour-Greens. A truckdriver
26 is classed as a truckdriver, but he can be on the
27 list that he is a spare or permanent driver on other
28 P.U.C. equipment. Even your common labourer has to
29 know how and where to find a sewer blockage and many,
30 many other things. They are more versatile than most

1 people and yet it is not seen fit to make them first-
2 class citizens with the rates of pay and the government
3 Acts that cover them. If it is good enough for the
4 industrials, it should be good enough for the public
5 employees.

6 THE COMMISSIONER: The only cure probably
7 that would eliminate all of these errors would be a
8 sort of benevolent despotism which we don't want.

9 MR. BRADSHAW: I would like to say before
10 we leave this particular subject, we started on
11 compulsory arbitration and we have gone a long way.
12 I think we have tried to prove to you that there isn't
13 permanency in the public employment and I think if you
14 look at the facts on permanency of employment I would
15 do better in a steel plant than in the city. There is
16 less layoff there than in the city proportionately.
17 I think the effects of strikes in different ones, I
18 think the 80 bricklayers who went on strike at Sault
19 Ste. Marie had more of a detrimental effect on the
20 public there than if the garbagemen had gone on strike
21 in Sault Ste. Marie. In Hamilton the garbagemen did
22 go on strike and they lost the strike in Hamilton ----
23 not too long ago, 1960.

24 MR. POLLOCK: How long were they on
25 strike then?

26 MR. BRADSHAW: Five weeks.

27 MR. POLLOCK: During the summertime?

28 MR. BRADSHAW: Yes, and they lost the
29 strike.

30 MR. POLLOCK: There are enough other smells

1 in Hamilton that you couldn't really notice it!

2 MR. BLACKBURN: The harbour was too close,
3 I guess.

4 MR. BRADSHAW: You should know here in
5 Toronto when the prevailing winds blow this way.

6 MR. POLLOCK: We do know when they blow
7 this way.

8 MR. HUGGETT: Might I just say a word, sir?

9 THE COMMISSIONER: We will be here this
10 afternoon. Have you about reached the end?

11 MR. HUGGETT: Oh, yes, just a few words.

12 THE COMMISSIONER: Yes, certainly.

13 MR. HUGGETT: There was one thought occurred
14 to us at the recess in connection with the certification
15 votes, the suggestion that even a referendum would
16 provide a degree of secrecy and would prevent the
17 boss, the administration, from exerting an influence on
18 people in respect of a certification vote. More than
19 that, I would like, Mr. Commissioner, to stress before
20 we leave that compulsory arbitration as a means of
21 bringing about some kind of relationship is not, in
22 our opinion, a good answer. It is a sort of a
23 prohibition, it is evading the question, it is turning
24 your back really on the question. I want to make very
25 strongly to you, sir, the suggestion that there are
26 areas, our union and the hospital workers in particular
27 were scarcely tried when compulsory arbitration was
28 brought in, perhaps the Trenton Hospital strike. We
29 are not long in this field, I don't think our record
30 is bad. I suggest to you trials, give us a chance to

1 work out alternatives. There surely is a big area in
2 here in which ---

3 THE COMMISSIONER: What would you suggest
4 as alternatives?

5 MR. HUGGETT: I am in the unfortunate
6 position, Mr. Commissioner, because of being under
7 Bill 80 when I cannot speak as freely as I might.

8 THE COMMISSIONER: Insofar as this is
9 concerned you can speak your mind.

10 MR. HUGGETT: I quite agree, sir.

11 THE COMMISSIONER: Feel at liberty to say
12 anything you want to say.

13 MR. CUMMINGS: Quite honestly, I think
14 it is worthy of recommending that rather than take a
15 look at the cold, hard approach of compulsory
16 arbitration if mediators were hired and trained to
17 understand the problems of the different segments of
18 public employees and kept in touch with negotiations
19 when negotiations commenced and entered the field when
20 there is any sign of disagreement taking place, I would
21 think that there would be little, if any, occasion for
22 strikes to take place because they could be resolved
23 through good negotiations with capable mediators,
24 capable trained mediators who have the understanding
25 and the background and this has not been done.

26 THE COMMISSIONER: There is always the
27 possibility of a refusal to accept that. What are you
28 going to do then? I agree with you ---

29 MR. CUMMINGS: If it is an inconvenience
30 that is going to affect the public, I am sure that public

1 employees' unions have certainly showed that they are
2 responsible down through the years, more than
3 responsible on a comparative basis. I quite honestly
4 feel this, that there are going to be degrees of
5 inconvenience. For instance, in the Province of
6 Quebec you have a strike at this very moment in Quebec
7 Hydro, and that is part of the same national union,
8 and you will note that they are not striking the
9 whole province.

10 THE COMMISSIONER: No, but they are
11 annoying different communities at different times in a
12 circular action.

13 MR. CUMMINGS: Yes.

14 MR. POLLOCK: I want to ask you what effect
15 that has. If they don't close down any operation of
16 Hydro Quebec what effect has it got outside of its
17 local effect? It is a guerilla tactic in which no one
18 is even injured.

19 MR. CUMMINGS: I believe what they are
20 endeavouring to convey is that they are quite serious.
21 As a militant union might do by completely withdrawing
22 their services they are quite serious in the stand
23 that they are taking and they are endeavouring to
24 convey to the employer that they should have another
25 look at the position that they have taken.

26 MR. POLLOCK: Do you think their employer
27 there is really afraid that if they don't take another
28 look at it the union is going to call out all the
29 employees and black out Quebec?

30 MR. CUMMINGS: I really couldn't say.

1 MR. POLLOCK: I don't know how far behind
2 the Legislature was when they sent the teachers back
3 to work. I daresay it will be a little bit quicker
4 in Hydro.

5 MR. BRADSHAW: This brings a point to my
6 mind. Why the blanket coverage of compulsory arbitration?
7 We have a blanket coverage for all hospitals. There
8 is not even a chance to have a strike of any type, the
9 type of strike that might not adversely affect the
10 patients but may stop collecting the bills and things
11 like this.

12 MR. POLLOCK: I suggest it is for this
13 reason: if one side says, "We want complete arbitration",
14 and the other side says, "We don't want any arbitration
15 at all, don't talk to us about arbitration", there is
16 not much room for working out a compromise. If it had
17 been posed at the time, "Well, we will take this, let
18 us just make it in these local areas and work out the
19 arrangement", as a positive suggestion you might have
20 struck an agreement with the legislators that if it is
21 a question of "I refuse unequivocally to accept
22 it", and the other side says, "We need it absolutely",
23 then you are left two poles apart with somebody in the
24 middle trying to stir up something.

25 MR. BRADSHAW: But wouldn't that make more
26 sense if that weapon then was there and could be
27 brought into force? I don't know how the procedure
28 would work because there is a great potential risk of
29 danger to people's health in this one particular
30 instance, and then the government steps in or the Labour

1 Relations Board does it, rather than this blanket
2 coverage sort of thing.

3 MR. POLLOCK: Well, perhaps you might
4 prepare a draft of that type of legislation. It is
5 not the Magna Carta, it can be amended. We will give
6 it serious consideration.

7 THE COMMISSIONER: It seems to me you are
8 all evading the ultimate in these things because you
9 will not accept the judgment of others under any
10 circumstances and you admit that you at some times do
11 not agree in negotiations. So, there is always
12 that open end that is not covered and that is a thing
13 that the Legislature is trying to avoid, and it is
14 doing it in its best judgment. What seems to be
15 lacking is any fertility of idea that you get out of
16 this dead-end. "We don't agree, we are going to
17 strike, and we are going to strike against the public".
18 This is the important point. I must say that revolts
19 me. All I have to do is to look back 1,000 years
20 in the history of where we get our law, from England.
21 Private interests were affected, you were assaulted
22 or your property was damaged and all that. Who
23 decided what would be the result? Now, substantially
24 the individual decided that. He determined his right,
25 he determined his damages, and he enforced them.
26 We have got away from that. Why? Because it was
27 realized that you couldn't have a civilization advance
28 that way. They would not trust the neighbours and
29 it took until the 15th or 16th centuries to accept
30 the verdict of a jury, even a person being accused of

1 a criminal offence. We have gone all through this
2 question of depending upon and accepting the verdict
3 of other people. We do that now. We will hang a man
4 because a jury says he is guilty. 1,000 years ago
5 they would not accept that. They would say, "We won't
6 take the judgment of human beings, we will take the
7 judgement of the Creator in the form of the ordeal".
8 We have had 1,000 years advance on that when we know
9 that we have honourable men, we know that our judgment
10 is most likely to be prejudiced in our own interest.
11 Of course a man becomes passionate in his own interest.
12 You are concerned with the public function; the
13 fundamental liberty in this country is that he does
14 not have to work as a slave. If he is dissatisfied
15 with this job, he can go over there and get another
16 job, and under the policy that is being adopted
17 today of full employment it is under the whole
18 principle of work for human beings. We are subsidizing
19 industry, what for? Not because we can't satisfy the
20 demands of society; we are saturating some branches
21 of industrial production with products. The second-
22 hand cars by the thousands in this Dominion show what
23 the capacity of producing cars would be if they worked
24 24 hours a day and had three shifts. So it is not
25 production, it is distribution, and the only way you
26 get distribution is by the market process of having
27 something to exchange and the only way you get that
28 is by having something to do which the government has
29 undertaken.

30 Now, in those circumstances we are just

1 driven to accept the verdicts of other people. I am
2 not saying that you can't have situations in which
3 compulsory arbitration today is unnecessary because,
4 as Mr. Pollock said, if you don't buy from Ford you
5 buy from General Motors. You have the theory of
6 private enterprise which you assume now before this
7 Commission. The theory of it is that you have
8 competition, but in the public service there is not
9 that same question of competition, you are not driven
10 to be more efficient, you are not driven to see how
11 much more you can do because there is only a limited
12 amount and that procedure is gradually changing, but
13 not in a degree that is, I would say, objectionable
14 to the great majority of administrators. These
15 administrators all belong to the group that we belong
16 to, they are citizens, they are good citizens, but
17 they have not reached the stage where they can trust
18 the judgment of people who are qualified. I agree
19 with you that they ought to become familiarized with
20 it. I think that is a strong feature of the Australian
21 system that they allocate certain areas of industry
22 to certain commissioners, high-class commissioners,
23 they have got to have the capacity to do this, the
24 experience fulfills that capacity and you get the
25 most satisfactory judgments. We may disagree, but
26 that is the whole rule of our law, to settle these
27 things in a manner which, take it over the whole
28 country and over a period of time, is about as
29 satisfactory as in this life we can hope for.
30

1 I am not suggesting at all that there
2 is any addiction to a view or any final view taken.
3 All I am trying to get at are the considerations which
4 are strengths and weaknesses of accepting the verdict
5 of other people. You don't like it? Why? Because you
6 have an interest, but the public has an interest and
7 it seems to me in these cases where the strike is
8 essentially against the public, then, as they say in
9 baseball, you already have a strike against you.

10 MR. O'KEEFE: If we could sum up our
11 philosophical position very quickly, sir, it is simply
12 this, that we are aware of our 1,000 years of
13 development and our opposition to compulsory
14 arbitration wherein one man determines for us what is
15 right or wrong in our particular case ---

16 THE COMMISSIONER: Not necessarily one man.

17 MR. O'KEEFE: Well, we see it in that
18 way, and we are saying that we are not going to return
19 to the period prior to Runnymede, we are not going to
20 anyone ----

21 THE COMMISSIONER: Don't appeal like that,
22 I am not interested in that.

23 MR. O'KEEFE: Surely it was a problem at
24 Runnymede that people were not going to accept the
25 arbitration of King John.

26 MR. POLLOCK: Not people, barons.

27 MR. O'KEEFE: Well, we are the union
28 representatives in 1967.

29 THE COMMISSIONER: You are mistaken because
30

1 the problem there was whether or not the King would
2 follow the law. He said no, they said yes, and that
3 is what we are doing today, is following law which
4 involves the very thing which you are attacking.

5 MR. O'KEEFE: I don't quite see it like
6 that. To me from that period on it meant that people
7 did have certain rights and they did remove from their
8 society this arbitrary decision of one person, the
9 divine right of kings and in effect we are saying that
10 in 1967 surely we are not going to return. Now, I
11 mentioned to you about Australia and I have some
12 experience in Australia. You will remember that
13 compulsory arbitration came in in Australia, off the
14 top of my head, just before the First World War,
15 around 1912 or thereabouts.

16 MR. POLLOCK: It came in earlier than
17 that, just after 1900.

18 MR. O'KEEFE: You may have the particular
19 dates, I am thinking of the Prime Minister at the
20 time and the periods and I was thinking about 1912.
21 It doesn't matter, it goes to prove my point even
22 further. I am saying to you that in 1967 the proposal
23 of the early 1900's in Australia surely would not
24 apply in 1967. We cannot ignore in Ontario --- you see,
25 you can look at Quebec and you can look at British
26 Columbia and they have their problems. We have to
27 look at Ontario and it has its own unique development.
28 We have our own type of respect for law and order.
29 We have that in Ontario, and it differs to some degree
30

1 from other provinces and the experience that you have
2 in Ontario insofar as public employees are concerned
3 and municipalities and public service, the experience
4 over the past several years, I say to you, has been a
5 very good experience. We have had a minimum of
6 disruption in our public life in Ontario because of
7 strikes. We have groomed a lot of responsible union
8 representatives in the public employee field. These
9 things you can't ignore because this is what we have
10 in Ontario today. To say at this stage of time that we
11 have not over all of this time learned something in
12 the process, that we have not now become somewhat
13 more sophisticated, that we do not now show a greater
14 responsibility with regard to running our public
15 employee unions in Ontario is to ignore the record, and
16 we have a record and it is a very good record, and
17 there is no need at this time for the kind of
18 legislation that is going to destroy this development
19 that is there.

20 If there is one thing wrong still with
21 our society and with our development, it is the lack
22 of acceptance of unions in our society. It is only 12
23 months ago that we took out from the Labour Relations
24 Act that provision whereby a municipality could
25 declare whether it could deal with its employees or
26 not. It could opt out from the Labour Relations Act.
27 That is only 12 months ago that we got rid of that
28 vicious section of the Labour Relations Act so that now
29 we have, as it were, moved forward from this conflict,
30

1
2 this non-acceptance of unions in our society. I feel
3 that our people have shown great responsibility. All
4 we want now, and what I think is necessary and what
5 the Australians had in the early 1900's, what they had
6 there was they had acceptance of the union idea.

7 This is what we haven't quite got here yet. You had
8 social legislation in the early 1900's in Australia
9 that we didn't get in Canada until the late 1940's,
10 after the Second World War.

11 THE COMMISSIONER: You are really wasting
12 time because we are familiar with that. Everybody
13 who is interested in labour relations is acquainted
14 with these facts.

15 MR. O'KEEFE: This might very well be so,
16 but it seems to me that you are moving in a particular
17 direction that ignores the things that have gone on.

18 THE COMMISSIONER: You have no evidence
19 at all of us moving anywhere. I am trying to consider
20 the elements and the factors that are involved in
21 our legislation in this province. They provided for
22 it. Why? Because they considered it had a sufficient
23 public convenience and you might say in some respects
24 a necessity for action. It was on the basis of the
25 strongest considerations of public policy in which
26 the statutes were enacted and you can't disregard that.
27 There is the opinion of people who represent
28 democracy on the basis that you want to emphasize
29 democratic society. There you have it. If they are
30 bad, turn them out, let somebody new come in, but so

1 long as that is the expression of their opinion it has
2 to be given some respect.

3 MR. BLACKBURN: It is noted that the very
4 democratic element that passed Bill 81 did it at the
5 time when the whole top of the labour movement of the
6 Canadian union employees were having their convention
7 at Vancouver. They passed it without a by-your-leave
8 and flew out with me to go moose hunting. Very
9 democratic, I think.

10 THE COMMISSIONER: I want to say this,
11 that as far as the representation of public employees
12 is concerned and the public employees in this
13 province I would consider that they are first-class
14 citizens in every respect, first-class citizens in
15 responsibility and in carrying out their duties. It
16 is only a question of the means by which they can get
17 a substantial satisfaction, what they think they are
18 entitled to. What the individual thinks he is
19 entitled to may not be what the rest of the whole
20 community thinks he is entitled to for a given work
21 for the community. That is the problem and it is not
22 strengthened by making appeals which are really
23 irrelevant.

24 MR. BLACKBURN: I can't see how we can be
25 first-class citizens, sir.

26 MR. HUGGETT: Thank you very much for your
27 patience, sir.

28 THE COMMISSIONER: We will adjourn until
29 two o'clock.

30 Luncheon adjournment ---

1
2 ---On resuming at two o'clock p.m.
3

4 MR. POLLOCK: The Ontario Committee of the
5 Communist Party.

6 MR. MAGNUSON: My name is Magnuson and
7 this is Mr. Hunter and Mr. Brudy.

8 MR. POLLOCK: Mr. Magnuson, we have had
9 an opportunity to look at your brief. The method of
10 presentation is up to yourself. You may read it, talk
11 about it, or whatever you prefer. It is up to you.

12 MR. MAGNUSON: I don't think there will
13 be any point in reading the whole thing. I would just
14 make some references to it as we go along.

15 The first part of our brief is, of course,
16 an introduction which explains our position as an
17 organization which believes that the working class
18 has the historic mission or is the motive force that
19 will bring about a change in our society. From
20 this point of view, while we are not an organization
21 directly engaged in collective bargaining as such,
22 an economic organization, we are a political
23 organization which bases itself upon the philosophy
24 of Marxism and I think that we are perhaps all
25 acquainted with the fact that this is the 100th
26 anniversary of the production of the most monumental
27 work of capital and labour relations ---- "Capital"
28 by Karl Marx, which deals with this very problem that
29 this Commission is now discussing at this particular
30 point in our history here in this country, and as

1 a background to the position we take we say at the outset
2 it is that in terms of the public interest we are
3 here to defend the public interest because we
4 identify the public interest with the interests of
5 the labouring people, with the working people in our
6 society. These are indivisible and, therefore, we
7 contend that it is wrong to separate the public
8 interest from the working people anywhere or at any
9 time. In fact, in our society the majority of people
10 are working people and they are the majority that
11 should decide in a democratic system and we have
12 reached the point now, of course, where the question
13 is being decided as to whether or not the type of
14 private ownership that we have in our society of means
15 of material wealth production would not be better in
16 the hands of and administered by public authority than
17 in the hands of private individuals, because we take
18 the position that free enterprise is something that
19 has been undercut largely by mergers, by monopolization,
20 controlled by corporate industries which have become
21 so welded to government today that in many cases even
22 public authorities decide not with the class that owns
23 all the means of production, but with a section of
24 them which monopolizes it.

25 Immediately prior to, as we say on page
26 2, this Commission coming into being there was a
27 widespread and developing campaign by organized
28 labour here to abolish injunctions in labour disputes.
29 The position of organized labour in this respect was
30

1 stated clearly by the Canadian Labour Congress in a
2 resolution at the Winnipeg Convention and they have,
3 of course, repeated it since then to you, sir, and
4 to the public at large on several occasions including
5 the federal government.

6 Now, despite the fact that these
7 representations were made time and time again and so
8 on there was no action taken. The fact of the matter
9 is that in 1958 a Select Committee on Labour Relations
10 of the Ontario Legislature recommended that ex parte
11 injunctions should be abolished from use in labour
12 disputes, but no action was taken on it and then that,
13 we submit, is why finally democratic opinion within
14 and outside the labour movement became aroused over what
15 appeared to be an ill-concealed partisanship towards
16 employers which appeared to be a characteristic feature
17 of official policy and attitude towards organized
18 labour. This, then, produced a massive picketing
19 in Oshawa and Peterborough in early 1966, which was
20 variously greeted and condemned, depending, of course,
21 upon which side of the dispute a particular person or
22 group of persons chose to support.

23 Now, a great effort was made by those who
24 opposed the labour viewpoint to accuse the unions of
25 showing disrespect for the law. But in spite of this
26 fact we submit public sympathy went to labour. The
27 widespread character of this feeling was expressed
28 very well by the former Chief Justice of the Ontario
29 Supreme Court when he said:

30 "It may well be that what is

1
2 interpreted as disrespect for law,
3 in fact, may only be the manifestation
4 of a burning desire for justice."

5 This statement was made in a speech to the American Bar
6 Association at Montreal on August 8th last year.

7 I believe at the same time and on the
8 same occasion former Chief Justice McRuer said also
9 that law to be respected must deserve respect. Now,
10 the question here is there has been some skepticism
11 about the establishment of this Commission with
12 respect to this because there has been a feeling as we
13 express here in the brief ----

14 THE COMMISSIONER: Because of what?

15 MR. MAGNUSON: Because of the fact that
16 there has been a feeling of skepticism because, first
17 of all, as we say in the brief here, the Royal
18 Commission recommendations or any recommendations,
19 of course, do not necessarily have to be accepted
20 whether they are good or bad. That is one side of it,
21 but on the other hand, of course, also because of the
22 fact that we were on the eve of a provincial election
23 and that public authority in this province, that is,
24 the government in this province, may not have been
25 too anxious to get into a dispute over the question of
26 injunctions and were also in the position where
27 therefore they were trying to find a way of spending
28 time in getting at this and saving themselves from
29 the embarrassment of having to deal with it directly
30 at that particular time. Be that as it may, I do not

1 want to express any particular position on that, but
2 what we say here is that it remains, of course, for
3 this particular inquiry to justify or to disprove such
4 skepticism on the part of organized labour.
5

6 Here, of course, we are very mindful of
7 the fact that ---- I happened to be up in the Lakehead
8 area at that time working in the timber industry of
9 the Ford strike in 1945, which you, sir, are very
10 familiar with and out of which, of course, came the
11 Rand Formula which did a great deal at that time to
12 meet a situation which was developing with respect to
13 the responsibility of those to pay their way for whom
14 labour improved conditions and who were too passive
15 to do anything else about it, did not want to belong
16 to a union and so on. There is no doubt about it that
17 we have made some progress in this respect through
18 the struggle that labour has carried on through the
19 years. There has been progress made here and there.
20 It has been spotty at times. There have also, of
21 course, been retreats, but on the whole we submit now
22 that we are up against a situation where there has
23 to be a recognition of the need for changes and this
24 is the next portion I want to deal with here.

25 Labour cannot be kept in an inferior
26 position, on page 4 of the brief.

27 (Mr. Magnuson reads brief from "Today
28 industrial enterprises" on page 4 down to "economic
29 squeeze-play by the mammoth corporations" on page 6)

30 Now, we come to two sections in which I
have two quotations which I will explain at the time I

1 read them. The first is:

2 (Mr. Magnuson reads from "In the form of
3 money....." on page 6 down to "use-value of any
4 description..." on the same page)

5 Here I would like to raise the point that
6 a point has been raised prior before this Commission
7 with respect to labour as being a commodity. I do
8 not agree that labour is a commodity. I agree with
9 Justice Rand when he said it was not. Labour is not
10 a commodity. If labour was a commodity, then we
11 would not be living in a free society, we would be
12 living in a slave society or serf society. That is
13 the way with the capital which did away with that and
14 substituted the free work, but what is the commodity
15 is the power to labour. The capitalist, in other
16 words, and the employer does not buy the worker outright,
17 but he buys his capacity to work.

18 THE COMMISSIONER: Well, he doesn't buy
19 it in any real sense of the word "buy".

20 MR. MAGNUSON: Yes, he does.

21 THE COMMISSIONER: Time is involved in
22 that and it can be ended at any time by the employee.

23 MR. MAGNUSON: But the employee cannot
24 do that because he cannot live without selling this.
25 How is he going to live if he does not sell his labour
26 power? That is all he has to sell.

27 THE COMMISSIONER: To sell, what do you
28 mean by that? I am talking about the employee. What
29 has he to sell?

30 MR. MAGNUSON: Labour power.

1 THE COMMISSIONER: Well, of course, we
2 have developed in the last four or five million years
3 and when he was first put on this/what did he have
4 to do? He had to look after himself.

5 MR. MAGNUSON: I suggest to you, sir, that
6 the capitalist system has not existed for that long.
7 It has only existed for the last 150 years.

8 THE COMMISSIONER: I am talking about
9 human beings in that length of time.

10 MR. MAGNUSON: Yes, of course.

11 THE COMMISSIONER: And how did they get
12 on? They had themselves only to look to.

13 MR. MAGNUSON: Well, of course, if we
14 want to go into that prior to man becoming a tool-
15 using animal, if you might put it that way, he was
16 carrying on the struggle with nature for his living.

17 THE COMMISSIONER: Yes, he was struggling
18 with nature, of course, and now he is struggling with
19 nature on two legs themselves.

20 MR. MAGNUSON: Certainly there is a
21 struggle with nature, but it is also a struggle
22 between men and men.

23 THE COMMISSIONER: All I am doing is
24 examining some of the terms you are using.

25 MR. MAGNUSON: Yes, I see. Anyway, the
26 quotation here is from Volume 1 of "Capital", Chapter
27 6, and further here to the conclusion of that chapter
28 Marx goes on to conclude that in the following manner,
29 and I would like to quote that because I think that is
30

1 very interesting to make a point that I am trying to
2 establish here.

3 (Mr. Magnuson reads brief from "the
4 consumption of labour-power" at the foot of page 6
5 down to "much higher consideration" on page 7)

6 Now, we know the fact we live in a private
7 profit-making society.

8 (Mr. Magnuson reads brief from "We are
9 in agreement with" on page 8 down to "void for all
10 practical purposes" on page 9)

11 Now, by saying that we are not suggesting
12 that labour and collective bargaining have not made
13 progress in terms of being able to determine their
14 working conditions. What we are speaking about here is
15 the fundamental position that the two classes occupy
16 here in society, that is, the owner of capital and
17 those who labour, and in that sense capital, of course,
18 possesses the political power and the economic power,
19 in fact all the power that is necessary in order to
20 determine the direction in which our economy is to
21 operate. Here I would submit that in this relation-
22 ship there is a situation where the law today has taken
23 the question of the right to strike during the term
24 of an agreement out of the hands of the unions and
25 has established laws which say, in effect, that if
26 no strike clause is written into an agreement it shall
27 be deemed to be there so that by all the facts of the
28 situation that we can establish today all across the
29 country both federally ---- with perhaps the slight
30

1 exception of the Industrial Disputes Investigation Act,
2 federal --- provincial legislation across this country
3 takes away the right for the union to strike during
4 the term of an agreement.

5 MR. POLLOCK: And the Province of
6 Saskatchewan.

7 MR. MAGNUSON: In the Province of
8 Saskatchewan, of course, now they have a law that
9 goes much further actually and in Newfoundland in some
10 respects with respect to specific industries such as
11 public services and so on.

12 MR. POLLOCK: But in the Saskatchewan
13 Trade Unions Act there is no declaration of the right
14 to strike.

15 MR. MAGNUSON: Yes, that is right. Now, we
16 submit that labour's aims are not unreasonable in the
17 situation that we have and I may go on here to read
18 a short section here.

19 (Mr. Magnuson continues reading brief
20 from page 9 "In the current battles of workers" down
21 to "democratic public controls are essential" on the
22 same page)

23 Now, here, sir, I want with all due
24 respect to suggest that we do not here, of course,
25 agree entirely with those spokesmen of labour who
26 speak about the fact that government should not
27 intervene in labour matters, that it can be left purely
28 and simply to a matter of unions and employers to be
29 settled. The reason for this is what I said before,
30 there has been a very great change in the economic

1 structure of our industries in their organizational
2 setups through mergers, through corporate interests
3 becoming so overwhelming in some areas where we speak
4 of monopolies that it is not like dealing with
5 individual employers in the old days. Where I came
6 from the timber industry and where we negotiated with
7 the sawmill operator or the bush operator and he
8 was directly on the job, the employer was there every
9 day. Well, he is no longer there. In fact the real
10 owners of industry today very seldom see the operation.
11 They hire management to look after that. It is big
12 business and it operates in a way in which a union
13 can find it very difficult to get justice without
14 having some access to public authority assuming its
15 responsibility to see to it that labour gets justice.

16 MR. POLLOCK: Does that also hold for the
17 areas of labour monopolization?

18 MR. MAGNUSON: There is no such thing.
19 I deny that outright. There is no such thing as
20 monopoly of labour. Labour has no monopoly in this
21 society.

22 MR. POLLOCK: Well, in what some cases
23 might be called the craft union structure in the
24 construction industry where the trade unions are
25 in control of the source of labour.

26 MR. MAGNUSON: Yes, I grant you that that
27 can work both ways in many cases because I happened to
28 belong, that is until I quit my work in the industry,
29 to the Carpenters and Joiner, and I am familiar with the
30

1 fact that as a matter of fact many craft unions have
2 sometimes got into positions where the leaders of a
3 particular union have sold out to management or have
4 used the position to bargain in such a way as to line
5 their own pockets by taking a position where the union
6 sold ---- this happened, it is an historic fact ---
7 striking zones to certain employees. These are
8 the exceptions and these are not the rule, and these
9 do not justify an attack on unions at large, but I
10 would say a situation like that when it develops, and
11 here we are dealing with human being which are no
12 more perfect in every situation under any circumstances,
13 we are dealing in the social context with a social
14 problem here which has to do with the class
15 relationships and that is the thing I am interested in.

16 MR. POLLOCK: I didn't mean so much the
17 abuse of the closed-shop or the monopoly of a skill
18 for that type of corrupt purpose. I was thinking in
19 areas where the monopoly of skill would permit the
20 possessors of that skill to name any price and that
21 the purchasers of that skill, the employers, would then
22 have to pay it to operate and then would just pass it
23 on then to the general community in an increased price,
24 pass it on to a community that does not possess this
25 bargaining power because of their lack of skill or the
26 lesser monopoly. I think, for example, in a particular
27 industry of a very highly-skilled papermaker in the
28 pulp and paper industry, very skilled craftsmen in
29 the die-making industry and in some cases construction
30

1 workers because of the type of craft and trade
2 association.

3 MR. MAGNUSON: You see what happens in a
4 situation like this is that it is true that the law
5 of supply and demand which exists in the free market,
6 or did exist in the free market, doesn't always exist
7 in all situations, resulted in a situation where
8 certain sections of workers were able to get higher
9 pay than others. Papermakers is a good example, but
10 you see what happened there was that the capital that
11 was invested in that industry and those who managed
12 it managed in such a way to pass that on as to then
13 not pay as much to the people who were at the other
14 end of the bargain, that is, for example, in the
15 woods industry this was one of the big complaints we
16 had, that the people working in the primary section
17 of the industry did not get a sufficient pay because
18 they were helping, as a matter of fact, to subsidize
19 part of the rest of the labour force and this, of
20 course, here again shows that the employer is in a
21 position to organize that the way he sees fit. The
22 worker has very little say in it, except those few
23 who seem to happen to be in a more advantageous
24 bargaining position. I would not call that a
25 monopoly in the sense that they are in a position to
26 dictate just any price because they can't get any
27 price. If they could, then the industry just simply
28 wouldn't operate.

29 MR. POLLOCK: Oh, they can get any price ---
30 well, any price within reason.

1
2 MR. MAGNUSON: I mean to say the employer
3 would not operate if it becomes unprofitable.

4 MR. POLLOCK: And he is in the position
5 that you suggested before that you get into a
6 monopoly of employers who are able to keep increasing
7 the price and spreading the cost among the rest of the
8 people, and you say that that is an evil, that ought to
9 be regulated. I want to know if you ought to
10 regulate this other kind of evil too.

11 MR. MAGNUSON: Well, that is not the same
12 thing at all. I will not concede that the people who
13 are working for a living are in any position to
14 dominate the situation. They have absolutely no
15 say with respect to productivity, for example, which
16 is a very good example. Productivity is not something
17 that the workers can determine: the boss determines
18 productivity.

19 MR. POLLOCK: In those industries that
20 are operating to maximum full production, now, the
21 boss doesn't determine productivity either: the
22 demand of the market determines productivity.

23 MR. MAGNUSON; The demand of the market
24 never determines productivity. It determines the
25 profitability of an industry, yes. If they cannot sell
26 the commodity, then of course, they have to cut down
27 and then what happens? They just lay off workers, and
28 that is all.

29 THE COMMISSIONER: Well, the greater the
30 demand the more the production.

1 MR. MAGNUSON: Yes.

2 THE COMMISSIONER: So how are you saying
3 they are not related?

4 MR. MAGNUSON: Pardon me, I didn't quite
5 get that.

6 THE COMMISSIONER: If the greater the
7 demand the more call for production and the more
8 production.

9 MR. MAGNUSON: There is always a drive to
10 increase productivity and this we agree with. We
11 increase with increased productivity, we want
12 increased productivity and now we have come to the
13 point in society where with automated machinery and
14 a computerized electronic aid like we have now we can
15 produce an abundance for everybody and in that
16 situation the question becomes one as to how that
17 abundance is distributed. That becomes, of course, the
18 issue.

19 Now, to go on to these essential points
20 in Mr. Justice Freedman's report, I shall spare you
21 reading that because I am quite sure that the
22 Commission here is very much familiar with that and
23 probably have had it quoted before. It is documented
24 here as to the pages in the report from which I got
25 the quotations.

26 What I want to complete with here is the
27 recommendations that we are making.

28 (Mr. Magnuson reads from brief from page
29 11 "We believe that the course" down to "unacceptable
30 to Labour" on the same page)

1 THE COMMISSIONER: That is a fundamental
2 thing. Is it in existence in any country that has
3 what we call a communistic government?

4 MR. MAGNUSON: The right to strike and
5 picket, yes it is, and the right to work.

6 THE COMMISSIONER: Never mind the right
7 to work, I am talking about the right to picket and
8 to strike.

9 MR. MAGNUSON: It is there.

10 THE COMMISSIONER: Where?

11 MR. MAGNUSON: In the Soviet Union they
12 have it and in other socialist countries.

13 THE COMMISSIONER: I would like to have
14 some evidence of that, because I know that they deal
15 rather roughly with people who attempt to interrupt or
16 interfere with the administration at the top.

17 MR. MAGNUSON: I would not like, sir, to
18 get into a discussion about that here because I don't
19 know if I am competent to discuss that, I don't live
20 there, but I would suggest, sir, with all due respect,
21 that it is just as easy to get over there to find out
22 as it is to go to Australia to study compulsory
23 arbitration.

24 THE COMMISSIONER: It is just as easy for
25 you to go there too.

26 MR. MAGNUSON: I have been there.

27 THE COMMISSIONER: You are making
28 assertions you can't support.

29 MR. MAGNUSON: I can.

30 THE COMMISSIONER: Let me have some

1 authority then.

2
3 MR. MAGNUSON: I say they have the right
4 to strike, of course they do, and if they don't exercise
5 it it is simply because they own the means of production,
6 they are not wage slaves, like they are in this country.

7 (Mr. Magnuson carries or ^{reading} / brief from
8 "The right to consult and to negotiate" on page 11
9 down to "rationalization of production and automation"
10 on page 12)

11 Now, on this point I would like to
12 emphasize, sir, that the right to share with management
13 in the planning of production is rather important.
14 Today, to give one example of what is going on in
15 Ontario we have a new plant being constructed at
16 Talbotville, Ontario by the Ford Motor Company. I
17 think it is impossible for any member of the union
18 concerned in the industry to determine whether or not
19 the coming into operation of that plant is going to
20 mean that some other plant is going to reduce its
21 activity or that the workers from some other plant
22 are going to have to be moved there, but if it is a
23 matter, of course, of there being or not being an
24 additional productive facility, that is fine, but if
25 workers are to be moved from some other place there,
26 then they should have the right to know in advance,
27 because I submit to you that the company would have
28 known for at least the past five years what they
29 intended to do there, if not more.

30 Now, they have taken and made provisions

1 in the establishment of a plant in which there is also
2 a great deal of public subsidy and since we were
3 discussing the method, for instance, of the Ontario
4 Hydro this morning in the submission here by the
5 Canadian Union of Public Employees, I might say that
6 both water rates and Hydro rates in the St. Thomas and
7 London area have gone up and I submit to you they have
8 gone up simply because of the fact that it is a form
9 of indirect subsidy to the Ford Motor Company to get
10 better rates in its operation at Talbotville.

11 MR. POLLOCK: What is that again? The
12 Hydro rates have gone up?

13 MR. MAGNUSON: Yes, water rates have gone
14 up. Water rates in St. Thomas are more than double.

15 MR. POLLOCK: And what is the purpose of
16 that?

17 MR. MAGNUSON: An indirect subsidy, I
18 submit, to the Ford Motor Company.

19 MR. POLLOCK: How does the Ford Motor
20 Company get there?

21 MR. MAGNUSON: They benefit from it.

22 MR. POLLOCK: They pay a higher rate.

23 MR. MAGNUSON: They don't pay a higher
24 rate, as a matter of fact, they would probably pay a
25 much higher rate if it wasn't for this, so that we can
26 not here separate in many cases public utilities being
27 very much tied to private enterprise in this situation.

28 MR. POLLOCK: You mean your position is
29 to make available a commercial rate to Ford they have to
30

1 subsidize?
2

3 MR. MAGNUSON: Exactly in the same way as
4 many municipalities give tax incentives and that may
5 all be also part of the business.

6 THE COMMISSIONER: That is they raise the
7 rates at St. Thomas in order to lower them at
8 Talbotville?

9 MR. MAGNUSON: Yes.

10 THE COMMISSIONER: How far away is
11 Talbotville from St. Thomas?

12 MR. MAGNUSON: It is very close.

13 THE COMMISSIONER: What evidence have you
14 of that?

15 MR. MAGNUSON: Well, the evidence I have
16 of that is the statement by the Mayor of St. Thomas
17 who made that statement now on several occasions and I
18 believe him. I think he is right.

19 MR. POLLOCK: Do you know what the rates
20 the Ford Motor Company are going to be paying there
21 are? They aren't in operation yet, are they?

22 MR. MAGNUSON: No, but the rates, I under-
23 stand, are established. I couldn't tell you what they
24 are going to pay contractually, because I haven't got
25 that.

26 MR. POLLOCK: But you don't know what the
27 demand of the plant is going to be.

28 MR. MAGNUSON: They probably have an idea
29 of that, they probably have that pretty well figured
30 out. Anyway, they have a pipeline constructed to pull

1 the water from both sides of both Lake Huron and Lake
2 Erie constructed by the Ontario Water Resources
3 Commission.
4

5 THE COMMISSIONER: That was bound to raise
6 water rates. They have taken the water from Lake Huron
7 because their wells were running dry, their deeply-
8 sunken wells. They had the same thing in London.

9 MR. MAGNUSON: They have had a water
10 problem, but there was not a problem that was
11 insurmountable, and they are going to have a bigger
12 water problem now if they don't get the plant.

13 THE COMMISSIONER: They didn't get
14 sufficient and pure water, that is all, and they are
15 bringing it from Lake Huron.

16 MR. MAGNUSON: But the point here about
17 planning --- and this is very important with respect
18 to a community --- if I may add another point here. In
19 a community that is being established, say, for
20 instance, a new community whether it is down there or
21 someplace else the question of whether that community
22 is going to live or die of course depends on whether
23 the industry stays there or not. Now, when the
24 industry comes to a community it will require more
25 public services and the question of the cost of those
26 services then comes into the picture as to who is going
27 to pay for it, so that is why I am suggesting, all I
28 am suggesting here is that it is of vital concern to
29 the working people who are a majority of people who
30 have to live and pay taxes and so on in these

1 communities as to the planning in advance, and the
2 participation in their planning and particularly is
3 this true, as Mr. Justice Freedman said, if they
4 undertake technological changes. These changes may
5 affect not only the employees, but may affect the
6 communities in terms of people being moved about.

13 MR. POLLOCK: Yes, but in the Talbotville
8 situation you make up on the P's what you lose on the
9 B's. If the community was interested enough to offer
10 attractive rates to the company to attract them there,
11 it must have been for some purpose. They must have felt
12 that the fact that the company was coming there would
13 be on balance a benefit to the community and would
14 have resulted in, I assume, better conditions for
15 everybody in the community than existed at the day
16 these negotiations were conducted. It was not done
17 altruistically.

18 MR. MAGNUSON: But the point is that
19 this competitive composition of one community bargaining
20 against one community what then is one community's
21 gain becomes another community's loss. That is the
22 point I am making.

23 MR. POLLOCK: I think that runs from one
24 community to one province to one country, that is true.

25 MR. MAGNUSON: Now, finally.

26 (Mr. Magnuson reads brief from "The
27 right to leisure" on page 7 to "as an instrument for
28 worker protection" on the same page)

29 THE COMMISSIONER: What do you think that
30 means?

1
2 MR. MAGNUSON: It simply means, sir, that
3 the working people have no say in who is going to be
4 hired by an employer. The employer determines that.
5 If, for example, an agent provocateur is hired by an
6 employer that comes into a strike situation --- pardon
7 me ---

8 THE COMMISSIONER: Just a moment, please.

9 MR. MAGNUSON: Pardon me, sir.

10 THE COMMISSIONER: Will you listen to my
11 question? You add:

12 "We may add that trade unions,
13 as voluntary non-profit associations
14 brought into being by working people
15 for their mutual self-protection, must
16 remain free of incorporation, licensing
17 or liability".

18 What do you mean by that, that they can do as they
19 please without any responsibility?

20 MR. MAGNUSON: They always come under
21 responsibility, there is no question about that.

22 THE COMMISSIONER: If they don't violate
23 laws and have no relations to laws at all, but have
24 relation to every citizen, the destruction of other
25 people's property, the invasion of other people's
26 interests, if they don't do that, the incorporation
27 doesn't effect a change at all in the present
28 conditions.

29 MR. MAGNUSON: All I am saying, sir, is
30 that we have means to take care of that. I do not think

1 we have been breaking laws and that anybody should
2 break laws, but to establish laws which we know in
3 advance are going to .punish a section of society which
4 is in a position where it needs to establish a balance
5 of power a need of assistance from public administrative
6 power is simply to aid employers to destroy the
7 bargaining power of labour and they can then be subject
8 to litigation and court procedures and fines which are
9 excessive and ridiculous and this is actually what is
10 happening today in Australia where they have that system
11 and in many other cases including Canada.

12 THE COMMISSIONER: I am not one who is
13 going to be overwhelmed by words. I am talking to you
14 on this simple question. Assuming now that a union
15 group destroys property as apparently it has done in
16 Gaspe, Quebec, destroyed property and damages that
17 amounted to over apparently \$2 million, do you think
18 that they ought not to be responsible for that?

19 MR. MAGNUSON: I don't think they are
20 responsible for that, the union. The union didn't
21 advocate that, the union did not organize it and the
22 fact of the matter is that we have no proof to the
23 contrary that the employers may have had something to
24 do with it themselves.

25 THE COMMISSIONER: Oh, well, I have nothing
26 more to say.

27 Well, thank you, gentlemen, that is all.

28 MR. HUNTER: Could I say a word?

29 MR. POLLOCK: Yes, certainly.

30 MR. HUNTER: Of course, I associate myself

1 fully with this. I would like to make the point that
2 I think it is a fact, for instance, in the development
3 of responsibility in the mines --- I am speaking now
4 of the coal mines, particularly the advanced actions
5 of the Scottish Miners' Union which are internationally
6 owned, that in the struggle for safety and particularly
7 the struggle against smoking in the mines, it was the
8 union that was decisive in relation to that question.
9 This is an historical fact. It is therefore the union
10 as a social factor and as a responsible factor that I
11 think has to be kept in mind as being a public
12 benefactor in that sense. I think everyone knows
13 that Mr. Moffatt is the former president of that
14 organization and is an established international
15 authority on the safety of mines.

16 I want to make that point because it is
17 associated with the next point that I want to make.
18 I live in Hamilton and there is a great body of opinion
19 in that city that somebody here said stinks, in effect
20 you get the smell from Hamilton, but it doesn't stink
21 in the labour movement, believe me, because the fact
22 of the matter is that a great number of people are of
23 the opinion that a great contribution to the
24 development of Hamilton and, incidentally, of the
25 province of the democratic processes was the mass
26 picketing of 1946. This was evidenced, of course, by
27 the fact that Mayor Sam Lawrence was elected who was
28 personally identified with that strike which involved
29 many, many thousands of people and that it is not at
30

1 all accidental that the growth and the development of
2 public responsibility among the Stelco workers is
3 expressed throughout the entire city in relation to
4 all aspects of work and life.

5
6 It is quite a comparison to note that in
7 the City of Hamilton there is still a great steel
8 complex which is unorganized, which was the centre of
9 anti-labour activity and I have to say quite flatly
10 that the reason that many of the workers won't join a
11 union is because they would be intimidated and they
12 would be fired and they don't feel there is very much
13 they can do about it and this has happened on a number
14 of occasions.

15 MR. POLLOCK: We have had the president of
16 the Steel Company of Canada tell us the conditions of
17 his competitor company are very good, but are not as
18 good as they are at the Steel Company of Canada.

19 MR. HUNTER: Yes, I think they are. I was
20 fired out of there 25 years ago. I was one of the
21 sacrificial lambs.

22 MR. POLLOCK: At Stelco?

23 MR. HUNTER: At Dofasco. I have been
24 fired a few times for organizing unions and so I know
25 something about how the process works.

26 MR. POLLOCK: That is something like 15
27 years ago.

28 MR. HUNTER: It was more than that, as a
29 matter of fact, it was in the original organization of
30 Dofasco that it was defeated. It was because they

1 fired all kinds of people and intimidated people in
2 their homes. We have the records.

3 MR. POLLOCK: What year was this?

4 MR. HUNTER: That was in the middle thirties.

5 MR. POLLOCK: That was not an uncommon
6 practice in those days.

7 MR. HUNTER: Not at all, but the point I
8 want to make is that there has been an enormous advance
9 from the days of Mr. McMaster and Mr. Sherman who
10 owned and controlled the City of Hamilton almost as a
11 company town. That is the point that I make and that
12 the dynamic in the City of Hamilton as far as progress
13 is concerned is the trade union movement. That is the
14 point that I want to make and therefore I want to say
15 that I believe concurrent with that it is necessary
16 to draw the conclusion that they are among the most
17 responsible element of the City of Hamilton, that they
18 are not interested as I am sure the Westinghouse
19 workers aren't, and I don't speak for them, although I
20 happen to be responsible along with others for the
21 first contract in that company years ago, I want to
22 say that I would say that these 3,000 when they voted
23 for the strike did so because they were very, very
24 responsible public citizens.

25 MR. POLLOCK: That is at Westinghouse?

26 MR. HUNTER: Yes, and that they together
27 with the great majority of workers are not interested
28 in violence and I want to say that during the 1946
29 strike it is a matter of public record that the chief of
30

1 police publicly thanked the Hamilton workers for their
2 discipline and their ability to control any excess.
3 That is a matter of public record, and I think there-
4 fore that this entire question as has been pointed out
5 by Mr. Magnuson, the question of the public, the
6 expression of the idea that somehow or other the
7 labour movement itself operates in opposition to and
8 in violation of the public interest is not based on
9 fact.

10 MR. POLLOCK: Are there some elements of
11 the labour movement that might do that?

12 MR. HUNTER: Of course there are because
13 it is not arithmetic. Yes, there are such elements.

14 MR. POLLOCK: So that those elements which
15 do live beyond the law, there would be no objection to
16 bringing them within the ambit of the law. There is
17 no suggestion that any of those people that acted
18 responsibly in the examples you have given would suffer
19 whatsoever if the unions were liable. They have done
20 everything in their power as a union and properly so,
21 to maintain order and satisfy the public.

22 MR. HUNTER: I don't think the unions
23 should be liable.

24 MR. POLLOCK: Well, they wouldn't be as a
25 fact in those circumstances, but the irresponsible
26 people, the people who, let us say, if you want to
27 talk of on the fringes who don't have that responsible
28 attitude that give labour a black eye, they perhaps
29 should be liable.
30

1
2 MR. HUNTER: But how is responsibility
3 developed?

4 THE COMMISSIONER: How is individual
5 responsibility developed?

6 MR. HUNTER: Individual responsibility is
7 developed on the basis of a development of an under-
8 standing of a person's responsibility to the community.

9 THE COMMISSIONER: It is generally not to
10 to the community at all, it is to another individual.

11 MR. HUNTER: Well, I don't know. I think
12 I would disagree with you on that matter.

13 THE COMMISSIONER: It grew out of one
14 person making a claim against another for having
15 lopped his arm off or something of that sort.

16 MR. HUNTER: Historically I would have
17 to disagree with you on the development of man along
18 that line.

19 MR. POLLOCK: Are we talking about
20 responsible people or are we talking about responsible
21 in the sense of doing things that are right or wrong,
22 or are we talking about responsible in the sense of
23 being liable for damages? I think we are at cross-
24 purposes.

25 MR. HUNTER: I am not speaking in terms
26 of the legal responsibility, I am speaking in terms of
27 social responsibility, responsibility to the community.

28 MR. POLLOCK: Acting in a responsible
29 manner.

30 MR. HUNTER: That is correct.

1
2 THE COMMISSIONER: There is no need of
3 trying to connect that with incorporation. They can
4 be responsible under social responsibility, of course,
5 just as much incorporated as unincorporated.

6 MR. BRUDY: What is the purpose of
7 incorporation?

8 THE COMMISSIONER: To make them liable when
9 they violate the general law that Mr. Hunter has just
10 spoken about.

11 MR. BRUDY: I doubt that. I personally
12 believe that the history of the labour movement
13 as briefly outlined by Mr. Hunter indicates that the
14 labour movement is socially very serious and very
15 responsible and is largely responsible for achieving
16 and winning some of the reforms now that we hold up
17 as an example of excellent society.

18 THE COMMISSIONER: Nobody is questioning
19 that.

20 MR. BRUDY: Then I am questioning the
21 fact the incorporation could be used and would be used
22 in order to weaken the bargaining rights of workers
23 and to cripple them in the courts which has been done.

24 THE COMMISSIONER: I think you are talking
25 nonsense.

26 MR. BRUDY: That is a matter of opinion,
27 that is your opinion, but we are not on the same side
28 necessarily.

29 THE COMMISSIONER: I think you are, you
30 want respect for the law, don't you?

1
2 MR. BRUDY: Yes, but what laws? I want to
3 respect the laws that interest the people, I don't
4 particularly want to respect the laws that are in the
5 interests of Dofasco, that doesn't necessarily interest
6 me.

7 THE COMMISSIONER: Just a minute. We were
8 speaking about violating the law and concerning the
9 destruction of other people's property. Would you
10 support that?

11 MR. BRUDY: No, but I am asking you but
12 you are not telling me here that you are going to have
13 a law that says they are unincorporated and that is
14 the only limit that that law is going to be used for.

15 THE COMMISSIONER: Well, how else would it
16 be used?

17 MR. BRUDY: Well, I say it would be used
18 to find ways and means of dragging the unions into
19 court and destroying them by legal methods.

20 THE COMMISSIONER: In what way?

21 MR. BRUDY: Well, you tie up a union
22 membership with its fees and lawyers' fees and court
23 procedures and so on you can destroy a union.

24 THE COMMISSIONER: But how do they get
25 there in court? What have they done?

26 MR. BRUDY: How does it get there anyway?
27 There have been many frameups of the labour movement
28 in the history of this country?

29 MR. POLLOCK: That example that you give
30 was the same argument that was advanced in British

1 Columbia in the proposition to the trade unions out
2 there in 1959 and even before that they were ~~sueable~~
3 in courts and there has not been any influx into the
4 courts involving trade unions other than by injunction
5 procedures which exist today. There has only been one
6 action. There have certainly been a considerable
7 number of allegations of wrongful activity which would
8 be sueable and it just has not occurred in any of the
9 provinces of Canada where trade unions are liable to be
10 sued.
14

11 MR. BRUDY: That does not justify it.

12 MR. POLLOCK: I suppose if it wasn't
13 writing it could be sending.

14 MR. BRUDY: But you are arguing the law
15 is equal to everybody and I am arguing that it isn't.

16 MR. POLLOCK: You are saying it is bound
17 to be abused and I am showing you that in cases the
18 same argument was advanced and it is not abused.

19 MR. BRUDY: You can't tell me that the
20 law has not been used against the workers and against
21 the unions in history and who is to say because of the
22 past few years that it hasn't, that the conditions for
23 it to be used are not being built up and aren't going
24 to be used? I would not argue that and I don't have
25 confidence in the laws that are passed by people who
26 are mainly on the other side of the fence. That is
27 simple enough. I think we are ~~not~~ dealing with a
28 hockey game where the players and the teams are all
29 operating under the same rules and therefore you can have
30

1 somebody who is refereeing something. You have a
2 position of one group of people who are competitive
3 with another group and the other group is the strongest
4 one because it decides whether you are hired or not
5 in this society.

6 THE COMMISSIONER: Any suggestion that there
7 is really one law for one person and another law for
8 another person is simply unfounded. Your difficulty
9 arises from the fact that you don't appreciate the
10 existing rights against which you are rebelling. You
11 have a perfect right to claim that they ought to be
12 modified. Nobody disputes that at all. That is part
13 of what you call your democratic process, and if you
14 think that some of the laws which apply to all of us
15 including labour men in the technical sense are
16 unfair, all you have to do is go out and say what they
17 are and tell the man whom you support at the next
18 election that he ought to act in this way to put you
19 on an equality with anybody else.

20 MR. BRUDY: That is very fine, I have no
21 disagreement with that, but then I don't have to agree
22 to be placed in the position beforehand with laws that
23 I know could be used against me.

24 THE COMMISSIONER: What do you think
25 incorporation is anyway?

26 MR. BRUDY: Well, I think of it in terms
27 of the union being a legal entity so that it could be
28 sued. I am against that.

29 THE COMMISSIONER: Well, why?

30 MR. BRUDY: Because I think that would be

1 one method used to destroy the union and cripple them.

2 THE COMMISSIONER: Again you haven't
3 worked it out, you don't know on what basis on what
4 field of law on what kind of law it will be imported.
5 You have a vague idea that there is something dangerous
6 in incorporation.

7 MR. BRUDY: I ought to know the results,
8 that is what is important.

9 THE COMMISSIONER: Mr. Hunter answered that
10 when he said this, that labour so-called ---- I think
11 we are all as much labour in one sense as any of you
12 --- in one sense there are people in the labour field
13 who are not responsible just as there are human beings
14 in every field who are not responsible and you take the
15 shareholders of a company, that company when it is
16 incorporated is liable for its violation of law, but
17 you might have 90 percent of the shareholders who
18 oppose that act for which they are responsible who
19 are going nevertheless to shoulder as shareholders
20 the responsibility. It is absurd to say that there is
21 any particular law that would create liability on a
22 union that is not applicable as part of a general law
23 to which we all are subject.

24 MR. MAGNUSON: But, sir, I would like to
25 add this, if I may, that a person who --- that is a
26 responsible individual commits some act whether it
27 is violence or destruction of property should be dealt
28 with as such, nobody disagrees with that, but we do
29 not agree that the community as a whole should be
30 punished for/^{what}an individual or group of individuals does,

1 and another angle to that ---

2 THE COMMISSIONER: Take the case that is
3 now presented where you are going home and you are
4 assaulted by some thug and your future life is
5 destroyed. You can live only at great expense and you
6 can't work. What is being proposed now, that the
7 state enable you to live for the future?

8 MR. MAGNUSON: That, of course, I agree
9 with.

10 THE COMMISSIONER: Then that disposes of
11 this argument.

12 MR. MANGUSON: I don't agree with what Hitler
13 did to Lidice in Czechoslovakia, I don't agree with that.

14 There is a difference here. It is high time, in my
15 opinion, that --- and I think we agree on this here
16 amongst us here --- that the law should be equally
17 concerned, perhaps even more concerned with people
18 than with property which has not been the case up
19 until now in many instances.

20 THE COMMISSIONER: Tell me one rule of law
21 that affects a labouring man that doesn't affect a non-
22 labouring man or that affects a company incorporated
23 that should not affect a labour incorporated if the
24 same act is done?

25 MR. MAGNUSON: But I am concerned, sir, with
26 justice, not necessarily with law. There is a
27 difference. Laws can be changed but laws sometimes ---
28 they may be administered fairly, but the law is of such
29 a character that justice is not always done.
30

1 THE COMMISSIONER: That may be, we are
2 changing laws every day.

3 MR. HUNTER: May I add, sir, I think I
4 could point out the absence of the law. I am convinced
5 that the absence of the law in our society at the
6 moment is causing a grave injustice and worry and
7 much speculation about the future and that is the
8 absence of the law that makes it mandatory upon an
9 employer to deal with the union. It is an employer's
10 choice in relation to technological change.

11 THE COMMISSIONER: That is something that
12 wants working out and Mr. Justice Freedman, I think the
13 most important part of his judgment is this, that the
14 loss caused by the men should be charged to the men.

15 MR. HUNTER: This is what we are speaking
16 about, sir, because 20 years ago the idea of putting out
17 a leaflet at the plant gates was almost considered to
18 be an act of treason. Believe me, I was arrested a
19 lot of times for doing this. It was almost like being
20 treasonable. I was arrested morning after morning
21 for handing out a leaflet. Can you imagine that?

22 THE COMMISSIONER: You can go back 500
23 years and get something much worse.

24 MR. HUNTER: In the idea of picketing.
25 These things have been established and they are accepted
26 as being a very important part of the process and it
27 brought democracy right up to the gates of the plant,
28 that is a fact.

29 THE COMMISSIONER: Yes, but take one of the
30

1 theories now underlying social action that if you take
2 one act and pursue it logically so far you change the
3 quality of that act.

4 MR. HUNTER: That is right, I agree with that
5 act, but historically wouldn't you say, sir, that the
6 fact that the idea is abroad in many sections of
7 society in the labour movement and aside from the labour
8 movement that there is need for control as is expressed
9 in Mr. Justice Freedman's report?

10 THE COMMISSIONER: Yes.

11 MR. HUNTER: And another expression of
12 opinion, would you not say that this question is a
13 key question in the development around which procedures
14 should be developed in this province, and in this
15 country, that that in itself would bring great
16 benefit not only to the labouring man, to the trade
17 unions and enhance their fitting of responsibility to
18 the community, but in itself would be a positive
19 development of the entire social fabric? In my opinion
20 and the opinion of this brief, it would.

21 THE COMMISSIONER: I did not catch the
22 first part of your statement. What was it based upon ---
23 the change?

24 MR. HUNTER: The change now necessary at
25 this time.

26 THE COMMISSIONER: I don't disagree, I
27 think you make a very powerful statement, but all I say
28 is that every one of these questions ---- and today we
29 are getting them in great numbers --- have to be worked
30 out. It takes some time. You have various things

1 suggested even in the way of automation. You may have
2 young men who can be trained for something else, you
3 may have old men who are fit to be retired, you have
4 intermediate men who are the difficult class. How are
5 you going to do that? Shall we keep them and give them
6 pensions earlier than otherwise it would be, or do we
7 just keep them on at other work which they can do, or
8 on the assumption they cannot do the improved more
9 highly technical work? Those are worked out and it
10 strikes me in many plants they are being all worked
11 out fairly satisfactorily and so far as the recognition
12 of the necessity is concerned I think that is steadily
13 growing or expanding and being rooted now in the
14 assumptions that underlie all actions between men and
15 employers. But you have to remember to some degree
16 that the time element is involved. Some people oppose
17 it undoubtedly and their opposition has to be modified.

18 MR. HUNTER: I agree, sir, the time element
19 is very important and I hope that the urgency of the
20 situation is being impressed upon those in authority
21 because I think time is beginning to run out a little
22 bit on this question.

23 THE COMMISSIONER: When you talk about
24 accommodation to economic difficulties all you have to
25 do is to see what the government of this country is
26 doing for the coal miners in Cape Breton. In the last
27 six years they have spent \$90 million in subsidies to
28 keep them working at producing energy in the form of
29 coal that is really not needed in this country.

30 MR. HUNTER: You touch me very much when you

1 speak about Cape Breton because I know a little bit
2 about Cape Breton and I have been in Cape Breton in
3 some struggles too and I have nothing but a great
4 feeling for the Nova Scotia miners and the Cape Breton
5 miners.

6 THE COMMISSIONER: Certainly I know
7 something about them too.

8 MR. HUNTER: I don't want to contradict
9 you because it was the Nova Scotia miners who were the
10 first organized in this country.

11 THE COMMISSIONER: I know, I agree, I am
12 talking about the interest of government in hard
13 social conditions.

14 MR. HUNTER: I think it is simply terrible
15 what is happening to Cape Breton Island and Nova
16 Scotia.

17 THE COMMISSIONER: Why?

18 MR. HUNTER: They are being almost, one
19 might say, sacrificed in areas where the people were
20 born and raised and they are now being forced from their
21 own land coming up to what they call "Upper Canada"
22 almost like immigrants coming up.

23 THE COMMISSIONER: Why?

24 MR. HUNTER: I think because the economic
25 development of this country is being developed in a
26 certain area at the expense of another part of the
27 country. That is my opinion.

28 THE COMMISSIONER: They are introducing
29 industries to a greater extent in Nova Scotia, certainly
30

1 not to a lesser extent than anywhere in the country.

2 MR.HUNTER: Why should Dosco die and why
3 should the coal mines die?

4 MR. POLLOCK: Nobody needs coal any more.

5 THE COMMISSIONER: Not only that, but
6 do you know what it costs to raise a ton of coal. Do
7 you know what it costs to raise a ton of coal to the
8 pit head?

9 MR. HUNTER: No, I don't know, but I know
10 what it costs to tear a Nova Scotian family out by its
11 roots and transport them up to Upper Canada.

12 THE COMMISSIONER: It takes over \$12 just
13 to produce it and then you send it 1,500 miles and the
14 government pays virtually all of the freight charges.
15 They can sell it to this province, the Hydro, it was
16 in the last few years \$8.50. They can buy it in the
17 United States for \$3.50 or \$4.50 and put it down here
18 for \$7.00 or \$8.00 and it costs \$12.00 to produce it
19 at the pit head in Cape Breton.

20 MR. MAGNUSON: It is interesting, sir, that
21 we are subsidizing western Canadian coal to send to
22 Japan.

23 THE COMMISSIONER: Exactly. To keep the
24 mines open in British Columbia and western Alberta.

25 MR. MAGNUSON: Not only that, but we are
26 also sending our iron ore to Japan to be processed.

27 THE COMMISSIONER: To keep the mines
28 operating, it is the employees who are insisting and
29 demanding that these subsidies be paid.
30

1 MR. MAGNUSON: I am not against the idea
2 where it is necessary, but I also want to add this,
3 that it may be also in our interests to develop
4 processing in this country.

5 THE COMMISSIONER: What processing?

6 MR. MAGNUSON: Iron ore and steel.

7 MR. POLLOCK: That would probably be a
8 good idea. Nobody would quarrel with that. The only
9 thing is that we would not be able to sell the steel
10 to Japan because Japan would turn around and buy the
11 iron ore from Australia which is just as close and is
12 not in competition, so it is not a question of whether we
13 should make the steel here or whether we should sell the
14 iron ore. If we are in the market to sell iron ore
15 and they want to buy iron ore, they don't want to buy
16 your steel, and if they don't buy it from us, they
17 will buy it from somebody in Australia. So, we are
18 competing with Australia, we are not competing with
1519 other people.

20 THE COMMISSIONER: There is another
21 element that underlies all this. In Nova Scotia they
22 have not any coal that is fit to make steel today,
23 they have to import it all from the United States.

24 MR. MAGNUSON: I couldn't say.

25 THE COMMISSIONER: I happen to know.

26 MR. MAGNUSON: But the point is that in
27 the long run if we continue that way, of course, we
28 will not develop our economy and will become a
29 secondary power and will become even more vulnerable
30 to competition in the world market.

1 Anyway, I thank you,sir, for your
2 attention. We appreciate very much your attention to
3 our presentation and thank you very much, Mr. Pollock.

4 MR. POLLOCK: Thank you very much,
5 gentlemen.

6 THE COMMISSIONER: The Commission is
7 adjourned until ten o'clock tomorrow morning.

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20 ---Adjournment.
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